



# California Regulatory Notice Register

REGISTER 2005, NO. 26-Z

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JULY 1, 2005

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. COMMISSION ON STATE MANDATES

#### DIVISION 2. FINANCIAL OPERATIONS CHAPTER 2.5. ADMINISTRATION

##### NOTICE OF PROPOSED RULEMAKING

The Commission on State Mandates (Commission) proposes to adopt the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

##### PUBLIC HEARING

The Commission has not scheduled a public hearing on this proposed action. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

##### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on August 15, 2005**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Cathy Cruz, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

##### AUTHORITY AND REFERENCE

Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to implement Government Code section 17530 and establish procedures for appeal of Executive Director decisions.

##### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving

applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6). The Commission proposes to amend section 1181 under article 1 of the California Code of Regulations, title 2, division 2, chapter 2.5.

Section 1181 delegates certain functions to the Commission itself or to the Executive Director. The Commission proposes to amend subdivision (c) of this section to establish procedures for appeal of Executive Director decisions.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school district: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other non-discretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None

Significant effect on housing costs: None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

*Small Business Determination:* Because the Commission has no jurisdiction over small businesses, the proposed regulatory action will have no impact on small businesses.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Cathy Cruz, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562

The backup contact person for these inquiries is:

Nancy Patton, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Cruz at the above address.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Commission order to initiate rulemaking proceedings. Copies may be obtained by contacting Ms. Cathy Cruz at the address or phone number listed above. All persons on the Commission's interested persons mailing list will automatically be sent a copy of the rulemaking file.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Cathy Cruz at the address indicated above. The Commission

will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Cathy Cruz at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at [www.csm.ca.gov](http://www.csm.ca.gov).

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES ADOPTION/AMENDMENT

#### CHAWANAKEE JOINT SCHOOL DISTRICT MINARETS JOINT UNION HIGH SCHOOL DISTRICT SANTA CRUZ/SAN BENITO COUNTY SCHOOLS INSURANCE GROUP

A written comment period has been established commencing on **July 1, 2005** and closing on **August 15, 2005**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.



The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **August 15, 2005**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Teri Rindahl,

Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

### NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **August 18, 2005**, at 10:00 a.m. in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, Glendale, California 91026-4308.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **August 18, 2005**, following the Public Meeting in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, Glendale, California 91026-4308.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **August 18, 2005**, following the Public Hearing in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, Glendale, California 91026-4308.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the

Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

**NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND  
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Petroleum Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **August 18, 2005**.

A description of the proposed changes are as follows:

**1. TITLE 8: PETROLEUM SAFETY ORDERS**

**Drilling and Production**

Chapter 4, Subchapter 14, Articles 2, 9, and 15

Sections 6505, 6533, 6551, and New Section 6552

**Refining, Transportation and Handling**

Chapter 4, Subchapter 15, Articles 2, 16, and 18

Sections 6755, 6845, 6857, and New Section 6858

**INFORMATIVE DIGEST OF PROPOSED  
ACTION/POLICY STATEMENT OVERVIEW**

On August 16, 1999, the Occupational Safety and Health Standards Board (Board) received a petition from Mr. Michael D. Wang (Petitioner), Manager, Operations and Environmental Issues, Western States Petroleum Association (WSPA), requesting that the state's Petroleum Safety Orders be updated to reflect recent changes in the national standards referenced in the Orders. WSPA is a trade group representing approximately 30 companies that explore, develop, refine, market, and transport petroleum and petroleum products in the Western United States. Many WSPA member companies own and operate facilities in California and requested that the national standard references be updated to the latest editions in order to provide consistency throughout their national facilities. These national standards include those published by the American Petroleum Institute (API), the American National Standards Institute (ANSI), the National Board Inspection Code (NBIC) and the American Society of Mechanical Engineers (ASME).

On January 20, 2000, the Board granted the petition to the extent that the Division of Occupational Safety and Health (Division) convene a representative advisory committee to review the national consensus standards recommended for adoption and, if appropriate, develop rulemaking based on consensus achieved at the advisory committee for consideration by the Board at a future public hearing. This rulemaking proposal is the result of five (5) advisory committee meetings convened by the Division between August 2003 and March 2004. Individuals from the petroleum, insurance inspection, and repair industries, representing both union and management, along with Division personnel, were involved in the advisory committee process, as well as a representative of the Petitioner.

The proposal updates existing references to the API 510, Pressure Vessel Inspection Code, and the ANSI/NB-23, from their 1992 editions to their most current versions. These codes provide the owners/users of pressure vessels in the petroleum industry with the direction needed to ensure the safe operation of their pressure vessels. The latest edition of API 510 references two new recommended practices: risk-based inspections, and fitness-for-service assessments. A risk-based inspection program, as described and outlined in API 580, Risk-based Inspection, Recommended Practice, First Edition, May 2002, addresses ways to manage risks on an equipment level, and assists owners/users in determining how frequently a pressure vessel should be inspected. A fitness-for-service program, as described and outlined in API 579, Fitness-for-Service, Recommended Practice, First Edition, January 2000, provides guidance for conducting an assessment of a damaged/flawed vessel or component using quantitative engineering evaluations in order to demonstrate its structural integrity so that it can continue to operate safely. Both the risk-based inspection and fitness-for-service program are intended to extend the intervals by which pressure vessels and boilers are to be inspected, thus minimizing the number of plant shutdowns required for these inspections. Each plant shutdown carries inherent risks, and most industry accidents occur when machinery and equipment must be stopped and then restarted. Moreover, each shutdown costs approximately \$1,000,000 for each day of lost production. Since both of these programs are intended to assist the industry in operating at a more safe and cost-effective level, and are referenced in the current edition of API 510, they have been included in the proposal. Although these programs would not be made mandatory, the Division would continue to provide oversight via review and acceptance of an owner/user's risk-based inspection or fitness-for-service program.



The ANSI/NB-23 referenced document would be updated to the 2004 edition, providing additional inspection criteria for specific types of pressure vessels, new welding techniques that may be used in lieu of post-weld heat treatment of the steel, clarified requirements for hydrotesting, and other technical requirements. ANSI/NB-23 is a national consensus standard that was developed from the input of pressure vessel and boiler manufacturers, repair firms, governmental jurisdictions, insurance companies, and other related entities.

In addition, new API and ASME codes and standards pertaining to pipe lines, fittings, and valves have been introduced or revised since the last update of the Petroleum Safety Orders, and are proposed for incorporation in the proposal. They include: API 570-2003, Piping Inspection Code; ASME B31.3-2002, Chemical Plant and Petroleum Refinery Piping; ASME B31.4-2002, Pipeline Transportation of Liquid Hydrocarbons; ASME B31.8-2003, Gas Transmission and Distribution Piping Systems; and API 1104-1999, Welding of Pipelines and Related Facilities, with Errata dated October 31, 2001.

The effect of these amendments would be to provide the regulated public with the specifications for the design, fabrication, assembly, testing, inspection and repair of piping systems that meet current industry standards. These new national codes and standards contain the latest techniques utilized by the petroleum industry to provide employees with a safe working environment. Newly installed piping would be required to comply with all the various standards, as applicable, while existing piping would have to comply with the inspection and repair requirements. The current Petroleum Safety Orders require pipe lines, fittings, and valves be installed, supported, and maintained to withstand the stresses imposed by the internal and external loads, and by contraction, expansion and vibration. The proposed amendments would maintain this level of safety through the explicit use, instead of the implicit use, of the standards referenced.

This proposed rulemaking action also contains numerous nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

#### **Section 6505. Definitions.**

Section 6505 contains definitions that are applicable to the Petroleum Safety Orders—Drilling and Production. It is proposed to revise the definition of an

owner-user inspection agency as an owner or user of pressure vessels who maintains a regularly established inspection department whose organization and inspection procedures have been accepted by the Division. The nonsubstantive amendment would provide grammatical clarity to the standard and would have no effect on the regulated public.

#### **Section 6533. Pipe Lines, Fitting, and Valves.**

Section 6533 specifies the requirements applicable to pipe lines, fittings and valves. It is proposed to reformat Section 6533 by grouping its contents into related subjects, i.e., subsection (a) would be entitled “General,” subsection (b), “Inspections,” and subsection (c), “Pressure relief devices and valves.” This proposed amendment will have the effect of clarifying the section and make it easier for the regulated public to find the subject-related standards.

Existing subsection (a) provides the general requirement that pipe lines, piping, fittings, and valves be installed, supported and maintained to withstand the stresses imposed by internal and external loads, and by contraction, expansion and vibration. It is proposed to renumber this requirement as subparagraph (1) under subsection (a) and specify that this standard applies to those pipe lines, piping, fitting and valves installed prior to the effective date of the proposal. This amendment is necessary since new standards are proposed for piping systems installed on or after the effective date of the proposal, and would have the effect of clarifying that those standards apply to existing installations.

New subparagraph (2) of subsection (a) specifies that the design, fabrication, and assembly of piping systems installed on or after the effective date of the proposal, and the testing, inspection, and repair of all piping systems shall comply with Article 146 of the General Industry Safety Orders, and ASME B31.3-2002, Process Piping, ASME B31.4-2002, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, ASME B31.8-2003, Gas Transmission and Distribution Piping Systems, or API 1104, Welding of Pipelines and Related Facilities, Nineteenth Edition, September 1999, (including the October 31, 2001 Errata), as applicable, which are hereby incorporated by reference. The proposed amendment would have the effect of providing the industry with technical information necessary to ensure that piping systems meet up-to-date design, fabrication, assembly, testing, inspection and repair specifications in order to ensure the safe operation of these systems.

New subparagraph (3) of subsection (a) would apply to all piping system installations and would require that each owner or user of piping establish an

inspection and maintenance program that will ensure that all piping has sufficient integrity for the intended service. The proposed amendments would have the effect of requiring the regulated public to ensure that their piping systems are safe and reliable.

Existing subsections (b), (c), (d), and (e) are proposed to be consolidated as new subsection (c) entitled, "Pressure relief devices and valves," in order to group the requirements pertaining to pressure relief devices and valves for clarity purposes.

New subsection (b) is proposed, entitled "Inspections," in order to address inspection requirements for piping systems. Subparagraph (1) requires that the inspector be an authorized piping inspector as defined in Section 4 of API 570, Piping Inspection Code, Second Edition, October 1998, Addendum 3, August 2003, proposed for incorporation by reference. This requirement would have the effect of ensuring that those who inspect piping systems are in fact qualified to do so.

New subparagraph (2) of new subsection (b) is proposed which permits piping inspectors or engineers to utilize the principles of API 570-2003 when developing inspection strategies and methodologies. While API 570-2003 applies to petroleum refining and chemical process activities, it may also be used when developing inspection strategies and methodologies for drilling and production piping systems. The proposed new subparagraph would have the effect of providing guidance to the regulated public when developing inspection strategies and methodologies in meeting the requirements proposed under subsection (a).

New subparagraph (3) of new subsection (b) is proposed which requires that the piping owner or user establish piping inspection risk classifications based on the potential for piping failure; the history, location, design basis, operating conditions and previous inspections of the piping system; and the consequences of piping failure relative to its location. These risk classes are to be specified as either Class 1, Class 2, Class 3 or Class 4, and examples of each are provided in the proposal. These requirements are necessary when determining inspection intervals and strategy as required in proposed new subparagraph (4) of new subsection (b), and would have the effect of requiring the regulated public to classify their piping systems based on specified criteria.

New subparagraph (4) of new subsection (b) requires that inspection intervals and inspection strategy be determined by the piping risk classification and the remaining life and corrosion rate calculations. The remaining life and corrosion rate calculations shall be performed in accordance with Section 7 of API 570-2003. When establishing maximum allow-

able pressure and temperature ratings, the material allowable stress and appropriate non-destructive examination factors from the original code of construction shall be used. Subparagraph (4) goes on to require that any signs of leakage or deterioration detected in the interval between inspections shall require inspection of that piping and re-evaluation by the piping inspector, the piping engineer, or a corrosion specialist of the inspection interval for that piping class. This re-evaluation may necessitate a decrease in the inspection interval or an increase in the number of inspection locations. If service conditions change the risk classification, the interval between inspections shall be re-evaluated. The proposal also specifies how the piping inspection intervals for each risk classification are to be set, and requires that individuals experienced in piping corrosion and inspection are to establish these intervals. The proposed new requirements would have the effect of clarifying how the inspection intervals are to be established and by whom.

New subparagraph (5) of new subsection (b) states that when the inspection of a piping system shows measured losses, the inspector or the piping engineer shall evaluate those losses, and that this evaluation shall include: establishing maximum allowable working pressure, performing remaining life calculations, retirement thickness determination and assessment of wall losses from general, local or pitting corrosion. This requirement would have the effect of requiring an evaluation of a piping system if measured losses are shown and specifies what the evaluation must include.

New subparagraph (6) of new subsection (b) requires that the inspector or piping engineer to review all repairs to Class 1 piping systems. Repairs to other piping classes shall be reviewed by the inspector or piping engineer, or the inspector may give prior authorization for specific repair procedures, provided the inspector has reviewed and approved the competency of the repair organization. The proposed requirements would have the effect of ensuring that repairs to piping systems which pose the greatest risk are reviewed by an inspector or piping engineer, and would allow the repairs to other piping system classifications be made by an inspector, piping engineer, or repair organizations when authorized by the inspector.

New subparagraph (7) of new subsection (b) requires each owner or user to maintain records of piping inspections, and these records shall include classification, inspection type, inspection interval, inspector, inspection results, and corrective actions taken for all piping systems covered. The proposed new standard would have the effect of requiring owners or users of piping systems to maintain records

of the piping inspections. These records would provide a history of the inspections performed on a piping system and a means to track the integrity of the piping system and the quality of the inspections.

New subsection (c) is comprised of existing subsections (b), (c), (d), and (e), which pertain to pressure relief devices and valves, and is entitled "Pressure relief devices and valves." The proposed amendment would have the effect of making it easier for the regulated public to find the standards pertaining to pressure relief devices and valves for piping systems.

**Section 6551. Vessels, Boilers and Pressure Relief Devices.**

Section 6551 specifies requirements that pertain to the operation, repair and alteration of pressure vessels, boilers and pressure relief devices. Due to the volume of existing Section 6551 and the amendments proposed for this section in this rulemaking action, it is proposed to reformat Section 6551 by consolidating requirements that pertain to maximum allowable working pressure, and maintenance, inspection, repair and alteration procedures into specific subsections. Requirements pertaining to pressure relief devices are proposed for consolidation and relocation to the now vacant Section 6552, Pressure-Relieving Safety Devices. The proposed reformatting and relocation of existing requirements are nonsubstantive changes that would provide clarity to the standards.

**Subsection (b)**

Existing subsection (b) specifies that no pressure vessel shall be operated above its maximum allowable working pressure at coincident design temperature(s). It is proposed to consolidate all requirements pertaining to "maximum allowable working pressure" contained throughout Section 6551 into subsection (b), now entitled "Maximum allowable working pressure." The aforementioned requirement contained in existing subsection (b) is proposed for relocation as subparagraph (2) under subsection (b).

Existing subsection (c), which requires the employer to establish, or cause to be established, the maximum allowable working pressure of each boiler or pressure vessel in accordance with the rules of recognized pressure vessel codes applicable to the pressure vessel service involved, remains unchanged, but is renumbered as subparagraph (1) under subsection (b).

Existing subsection (i) of Section 6551, which requires that the maximum allowable working pressure for each vessel be evaluated at intervals sufficiently frequent to give due consideration to corrosion and other factors causing deterioration, is proposed for relocation to subsection (b) as subparagraph (3). It is also proposed to add the requirement

that the original code of construction be used to establish the allowable stresses and joint efficiencies when re-rating, de-rating or calculating the pressure boundary minimum thickness of a vessel. This amendment would provide the industry with the guidance necessary to perform these calculations.

**New Subsection (c)**

New subsection (c) is proposed, taken from existing Section 6551(d)(1), which requires that maintenance, inspection and repair procedures of unfired pressure vessels comply with API 510, Pressure Vessel Inspection Code, Eighth Edition, June 1997, Addendum 4, August 2003, or ANSI/NB-23, American National Standard Institute/National Board Inspection Code, 2004 Edition, herein incorporated by reference. The proposal updates the existing document references to these current editions.

New subparagraphs (1) and (2) to subsection (c) are proposed that will allow for improvements in industry practices. New Section 6551(c)(1) would permit the use of a risk-based inspection program (as referenced in API 510), under specified conditions, to increase the internal inspection limits required by Section 6.4 of API 510 or the external inspection interval described in Section 6.3 of API 510. If used, the risk-based inspection program must comply with API 580, Risk-based Inspection, Recommended Practice, First Edition, May 2002, proposed for incorporation by reference. New Section 6551(c)(2) would permit the use of fitness-for-service assessments (as referenced in API 510), under specified conditions, to evaluate pressure vessels for continued service when found to have degradation that could affect their load carrying capability. If used, the fitness-for-service program must comply with API 579, Fitness-for-Service, Recommended Practice, First Edition, January 2000, proposed for incorporation by reference.

While not mandatory, both programs would be available to enable companies to operate their equipment in a more cost-effective manner while maintaining a safe work environment. The Division would provide oversight of these programs by reviewing and accepting a company's risk-based inspection and/or fitness-for-service program before it is implemented and every three years thereafter.

**Subsection (d)**

Existing subsection (d) states that repair and alterations of boilers and pressure vessels shall meet all applicable requirements of the Unfired Pressure Vessel Safety Orders and the Boiler and Fired Pressure Vessel Safety Orders. It is proposed to title subsection (d), "Repairs and Alterations," renumber the existing requirement as (d)(1), and add the phrase, "and shall comply with API 510, Pressure Vessel Inspection



Code, Eighth Edition, June 1997, Addendum 4, August 2003; or the ANSI/NB-23, American National Standard/National Board Inspection Code, 2004 Edition, which are hereby incorporated by reference.” The proposed reformatting of subsection (d) consolidates the requirements specific to repairs and alterations for clarity purposes. The new language is also added for clarity purposes, and has no new regulatory effect as it is already required under the existing section format. Existing subsection (d)(1), as stated earlier, is proposed for relocation to new subsection (c).

New subsection (d)(2) is proposed which requires that repairs and alterations of pressure vessels performed in a state other than California shall be done by a company with a valid National Board ‘R’ stamp and inspected by an inspector holding a valid National Board Commission and Certificate of Competency (or equivalent) for the state in which the work is being performed. The repair or alteration shall conform to all the requirements of this section and be stamped in accordance with the American National Standard/National Board Inspection Code, ANSI/NB-23-2004. The proposed new subsection is necessary for consistency with the existing requirement involving repairs and alterations performed within the State of California, and would have the effect of ensuring that repairs/alterations performed outside the state meet current industry standards and safety requirements.

New subsection (d)(3) entitled “Repairs” is proposed which would consolidate the requirements specific to repairs. Subparagraph (A) is taken from a portion of existing Section 6551(d)(1), which requires that repairs be performed by either an organization possessing a valid ASME Certificate of Authorization, or an organization in possession of a valid National Board Certificate of Authorization. An organization formerly allowed to perform repairs, one having welding procedures and operators qualified in accordance with Section IX of the ASME Code, has been repealed as these types of organizations currently do not perform this type of work for the petroleum industry, and lack the appropriate certification necessary to ensure that repairs to boilers and pressure vessels are in accordance with industry standards.

Existing subsections (e), (f) and (g) have been renumbered as subparagraphs (B), (C) and (D) of subsection (d), as they specifically pertain to repairs. The provision that allowed an authorized inspector, as defined in API 510-Pressure Vessel Inspection Code, to authorize repairs has been repealed in existing Section 6551(f) since these types of inspectors are not qualified to obtain a certificate of competency as a Certified Inspector or Qualified Safety Engineer as stipulated in California Labor Code Sections 7560

and 7651. The proposed amendment is for clarity purposes, and is necessary to rectify a discrepancy between the Title 8 standard and the Labor Code. The reformatting of these existing subsections is also for clarity purposes, and would have no effect on the regulated public.

New subsection (d)(4) is proposed to be entitled “Alterations.” Existing subsection (h) is proposed for relettering as (d)(4)(A) and requires that alterations to pressure vessels be performed in compliance with the American National Standard/National Board Inspection Code ANSI/NB-23, 2004 Edition, which is hereby incorporated by reference, unless the material design and construction are accepted by the Division as equivalent to the ASME Code. The national code reference has been updated to the 2004 edition, and the remaining contents of existing subsection (h) has been renumbered in accordance with the proposed new format.

Existing subsection (h)(A), now proposed as (d)(4)(A)2.a., permits an organization in possession of a valid ASME Certificate of Authorization to perform alterations to a pressure vessel, provided that the alteration is within the scope of such authorization. An amendment is proposed to include the additional condition that the organization’s alteration program has been reviewed and accepted by the Division. The amendment would have the effect of ensuring that the organization is qualified to perform alterations to pressure vessels and boilers that have been in service.

An amendment is also proposed to repeal existing subsection (h)(2)(C), which permitted an organization having welding procedures and operators qualified in accordance with Section IX of the ASME Code to conduct alterations. The amendment is consistent with the proposed repeal of existing subsection (d)(1)(C) with regard to repairs, and is necessary since these types of organizations currently do not perform this type of work for the petroleum industry, and lack the appropriate certification necessary to ensure that alterations to boilers and pressure vessels are in accordance with industry standards. The proposed amendment would have the effect of ensuring that only those organizations appropriately certified to perform alterations are specified to do so.

Existing subsection (i) to Section 6551 is proposed for relocation to subsection (b), where provisions pertaining to maximum allowable working pressure would be consolidated. Existing subsections (j) thru (q), regarding pressure-relieving devices, are proposed for relocation back to their original location in Section 6552 for clarity purposes.

#### **Section 6552. Pressure-Relieving Safety Devices.**

Prior to 1994, standards pertaining to pressure-relief devices were located in Section 6552. A rulemaking

action in 1994 transferred these requirements to Section 6551 for no other reason than the requirements pertaining to pressure-relief devices were being addressed in the then proposed amendments to Section 6551. Due to the amendments and reformatting proposed for Section 6551 in this rulemaking action, however, it is proposed to relocate the requirements pertaining to pressure-relief devices back to Section 6552, and rename the Section, "Pressure-Relieving Devices." The nonsubstantive amendment would have no effect other than to reduce the volume of Section 6551 and make it easier for the regulated public to find the standards pertaining to pressure-relief devices.

### **Section 6755. Definitions.**

Section 6755 contains definitions that are applicable to the Petroleum Safety Orders—Refining, Transportation and Handling. Nonsubstantive amendments are proposed for the definition of an "Owner-User" as an owner or user of pressure vessels who maintains a regularly established inspection department whose organization and inspection procedures have been accepted by the Division. The amendments would provide grammatical clarity to the standard and would have no effect on the regulated public.

### **Section 6845. Piping and Fittings.**

Section 6845 specifies the requirements for the design, fabrication, assembly, test, and inspection of piping systems. Section 6846 specifies the requirements for valves. An amendment is proposed to rename Section 6845 to read, "Piping, Fittings, and Valves," and relocate the requirements from Section 6846 (Valves) to Section 6845 for both consistency with the format of Section 6533, and because the standards incorporated by reference in Section 6845 are applicable to valves as well. As a result of relocating the contents of Section 6846 to Section 6845, existing Section 6846 is proposed for repeal.

Existing Section 6845 requires that the design, fabrication, assembly, test, and inspection of piping systems comply with General Industry Safety Orders, Article 146 and ASME B31.3-1990, Chemical Plant and Petroleum Refinery Piping herein incorporated by reference. It is proposed to reletter this provision as subsection (a), and require that the design, fabrication, and assembly of piping systems installed prior to the effective date of the standard comply with the existing referenced standards, while the design, fabrication, and assembly of piping systems installed after the effective date of the standard are to comply with Article 146 of the General Industry Safety Orders (GISO); API 570, Piping Inspection Code, Second Edition, October 1998, Addendum 3, August 2003,

and ASME B31.3-2002, Process Piping, herein incorporated by reference. The testing, inspection, and repair of all piping systems are also required to comply with GISO Article 146; API 570, Piping Inspection Code, Second Edition, October 1998, Addendum 3, August 2003, and ASME B31.3-2002.

Additionally, new subsection (a)(1) is proposed which states that excluded and optional piping systems specified in Section 1.2.2 of API 570-2003 are subject to inspection and testing by the employer in accordance with good engineering practices. This requirement would have the effect of ensuring that the safety of all piping systems are addressed, including those specified as excluded and optional in API 570-2003.

The amendments proposed for Section 6845 would have the effect of improving the safety of piping systems installed at petroleum refineries. The ASME B31.3 standard covers the construction of new piping systems and does not provide instructions for piping systems once they have been placed in service. The new standard, API 570 Piping Inspection Code, was developed by the petroleum industry to provide a unified methodology for the inspection and testing of piping systems that are in refinery service. The adoption of this standard was requested in the petition from the petroleum industry to the Standards Board that initiated this rulemaking action. This amendment would have the effect of allowing the refinery industry the ability to implement their piping inspection programs nationally and not create a separate program strictly for California.

### **Section 6857. Vessels, Boilers and Pressure Relief Devices.**

Section 6857 specifies requirements that pertain to the operation, repair and alteration of pressure vessels, boilers and pressure relief devices. Due to the volume of existing Section 6857, it is proposed to reformat the section by consolidating requirements that pertain to maximum allowable working pressure, and maintenance, inspection, repair and alteration procedures into specific subsections. Requirements pertaining to pressure-relief devices are proposed for consolidation and relocation to proposed new Section 6858, entitled "Pressure-Relieving Devices." Both the substantive and nonsubstantive amendments proposed for this section are identical to those proposed in this rulemaking action for Section 6551, Petroleum Safety Orders—Refining, Transportation and Handling. The proposed reformatting and relocation of existing requirements are nonsubstantive changes that would provide clarity to the standards. A description of the substantive amendments and their effect on the regulated public can be found under the proposed amendments to Section 6551 in this Informative Digest.



DOCUMENTS INCORPORATED  
BY REFERENCE

1. ASME B31.3-2002, Process Piping.
2. ASME B31.4-2002, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids.
3. ASME B31.8-2003, Gas Transmission and Distribution Piping Systems.
4. API 1104, Welding of Pipelines and Related Facilities, Nineteenth Edition, September 1999, with Errata dated October 31, 2001.
5. API 510, Pressure Vessel Inspection Code, Eighth Edition, June 1997, Addendum 4, August 2003.
6. API 570, Piping Inspection Code, Second Edition, October 1998, Addendum 3, August 2003.
7. API 579, Fitness-for-Service, Recommended Practice, First Edition, January 2000.
8. API 580, Risk-based Inspection, Recommended Practice, First Edition, May 2002.
9. ANSI/NB-23, American National Standard/National Board Inspection Code, 2004 Edition.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

**Cost or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed actions.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Companies regulated by the proposed standards could experience significant operating cost savings while maintaining a safe working environment for employees. Advances in engineering, maintenance, inspection, and operations are included in the new editions of previously adopted standards and the new standards proposed for incorporation by reference. These advances provide the technical guidance petroleum production and refining companies need to safely maintain and operate their boilers, pressure vessels, and associated piping. The potential cost savings and employee safety benefits provided by these new

standards would more than offset the negligible cost of the tri-annual reviews performed by the Division.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. See also "Impact on Businesses."

**Cost or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School District Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school district to incur additional costs in complying with the proposal. Furthermore, the standards do not constitute a "new program or higher level of service of an existing program with the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standards do not impose unique requirements on local government. All employers-state, local and private-will be required to comply with the prescribed standards.

## EFFECT ON SMALL BUSINESSES

The board has determined that the proposed amendments will not affect small businesses. Those businesses effected by the proposal own and operate petroleum production and refinery facilities throughout the United States and are involved in exploring, developing, refining, marketing, and transporting petroleum and petroleum products.

## ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

## REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than August 12, 2005. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on August 18, 2005, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## TITLE 14. DEPARTMENT OF CONSERVATION

### PAYMENT BY COUNT SIGNAGE REQUIREMENTS

#### TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION

#### CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR), Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

#### SUBCHAPTER 6. RECYCLING CENTERS

##### *Article 1. Requirements for Recycling Centers*

##### § 2500. OPERATION STANDARDS

Subsection 2500(e)(1): This deletion is necessary due to the addition of new Subsection 2500(e)(3).

Subsection 2500(e)(2): This amendment will further clarify, for consumers and recycling center operators, that consumers may be paid refund value, by count, for each plastic "resin type".

Subsection 2500(e)(2)(B): This amendment is necessary due to the addition of new Subsection 2500(e)(3).

New Subsection 2500(e)(3): This new subsection has been added to the regulations to require that recycling center operators post a “NOTICE OF PAYMENT BY COUNT” sign. This sign will notify consumers of their option of payment by count. In addition, requiring the “NOTICE OF PAYMENT BY COUNT” sign to include “For more information, call 1-800-RECYCLE (732-9253)” will direct all questions or concerns regarding this program to the appropriate Division contact.

New Figure 9.3: This figure has been added to be consistent with the signage requirements for recycling centers Section 2500(e)(3).

Subsection 2500 Reference: This amendment is necessary to include Section 14552(a) of the Act as a reference.

*Article 3. Accounting and Reporting Requirements*  
**§ 2535. PAYMENTS TO CONSUMERS, CURB-SIDE PROGRAMS, COMMUNITY SERVICE PROGRAMS AND DROPOFF OR COLLECTION PROGRAMS.**

Subsection 2535(b)(1): This amendment is necessary to clarify the consumers option of being paid refund value by count for up to fifty empty beverage containers of each material type. The addition of “[each resin type]” to the plastic “material type” reference will further clarify that consumers have the option of payment by count for each plastic resin type.

**INFORMATION IS AVAILABLE UPON REQUEST**

Copies of the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 “K” Street, 19th Floor, Sacramento, California. For general or substance questions regarding this file, please contact the agency contact person, Eloisa Hernandez, at (916) 327-2757. The backup agency contact person for this rulemaking file is Karen Denz, who may be contacted at (916) 322-1899. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

**SUBMITTING WRITTEN COMMENTS**

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on August 15,

2005. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Eloisa Hernandez, Proposed Payment by Count Signage Requirements Permanent Regulations, Department of Conservation, Division of Recycling, 801 “K” St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: [DORRegulations@consvr.ca.gov](mailto:DORRegulations@consvr.ca.gov), or faxed to (916) 323-0732.

**PUBLIC HEARING**

A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

**SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE**

Following the public hearing, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed regulatory action, a revised notice, called a renote, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days prior to its adoption. Those persons who testified at the public hearing, submitted written comments at the public hearing, whose comments were received by the Department during the public comment period, or who requested notification from the Department of the availability of changes to the text of the proposed regulations, will be sent any renotes.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers along the State’s highways. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The Department amended the CCR Sections 2430, 2525, and 2535 (effective July 28, 2004) to clarify the statutory requirements of Section 14572 of the Public Resources Code. These regulatory amendments clarified and increased the consumer’s option of payment



by count from “up to fifty empty beverage containers” to “up to fifty empty beverage containers of each material type.”

The proposed amendments to the CCR Sections 2500 and 2535 will alleviate confusion among consumers and recycling center operators by clarifying the consumers’ option of being paid refund value by count for up to fifty empty beverage containers of each material type. The addition of “[each resin type]” to the plastic “material type” reference will further clarify that consumers also have the option of payment by count for each plastic resin type. The payment by count signage requirement will alert consumers of their option to request payment by count.

Adoption of the proposed amendments will further clarify regulations, reduce the ongoing complaints from consumers, and reduce confusion among recycling center operators and their attendants regarding the Division’s payment by count transaction requirements. These amendments will make recycling by count more consumer friendly, thus, providing consumers a greater incentive to recycle and improve the Division’s potential for meeting its recycling rate goal, as mandated by the Act.

#### AUTHORITY

These regulations are submitted pursuant to the Department’s authority under Public Resources Code Sections, 14530.5(b) and 14536.

#### REFERENCE

Public Resources Code Sections, 14552(a), 14571(d), 14571.3(a), 14572, and 14572.5.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language.

These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: The Department has determined that no significant impact to California private persons or directly affected businesses will result from the adoption of this proposed regulatory language. The estimated cost for a recycling center to comply with the signage requirements is \$12.00. These proposed regulations serve to clarify and make specific existing statutory requirements.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new nor eliminate existing businesses within California;

Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will insignificantly affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

#### FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS  
FILE ON THE DEPARTMENT OF  
CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: [www.conservation.ca.gov](http://www.conservation.ca.gov).

**TITLE 14. FISH AND  
GAME COMMISSION**

NOTICE OF PROPOSED CHANGES  
IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 205, 240 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 205, 240 of said Code, proposes to Add Sections 2.45 and 251.9, Title 14, California Code of Regulations, relating to Computer Assisted Remote Hunting and Fishing.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

With the use of computer-assisted remote hunting/fishing, from anywhere in the world, a person could remotely utilize a computerized system where a shooter can control a camera that has pan, tilt, and zoom features and a firearm or other weapon to shoot/take real living targets in real time.

The system uses a minimum of two cameras, one connected to the rifle scope and another alongside the gun or weapon. The cameras beam images back to a person who is sitting in a remote location looking at a computer screen. The rifle or weapon is mounted atop a pan-tilt motor, which users can control with four arrows, a computer mouse or joy stick, to control the up and down and side to side motion of the weapon. When the target appears in the scope's crosshairs, the user clicks a "fire" button to discharge the impact object (bullet, arrow, spear, etc.).

There are currently no definitions or regulations relating specifically to computer-assisted remote hunting/fishing in the Fish and Game Code or Title 14, California Code of Regulations. The proposed regulation would define computer-assisted remote hunting/fishing and specifically prohibit its use. In addition, the regulation would also prohibit the establishment of an internet, or web-based site, to assist in the taking of birds, mammals or fish.

Physically removing the "hunter/fisher" from the animal he/she is killing can subvert laws governing hunter/fisher age, training and licensing requirements and can subject animals to undue suffering. In

addition, the element of a fair chase has always been a part of the American hunting heritage and the use of remote-controlled hunting/fishing is in direct conflict with basic hunting/fishing principles.

The sport hunting group Safari Club International has spoken out against computer-assisted remote hunting and several states including Maine, Oregon, Tennessee, and Virginia, have or are in the process of introducing regulations prohibiting its use.

Although the Department is not aware of any computer-assisted remote fishing sites at this time the language in this proposal is written in anticipation that this technology, currently used for taking birds and mammals, may soon expand to include fishing as well.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 1050 Monterey Street, 2nd floor, San Luis Obispo, California on Friday, August 19, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 15, 2005 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than August 19, 2005, at the hearing in San Luis Obispo, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Jon Fischer or Jon Snellstrom at the preceding address or phone number. **Rob Allen, Enforcement Branch, Department of Fish and Game, phone (916) 651-9953, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested



may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is

proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 202, 3003.1 and 4181 of the Fish and Game Code and to implement, interpret or make specific sections 3003.1 and 4181, of said Code, proposes to Amend Section 401, Title 14, California Code of Regulations, relating to Issuance of Permits to Take Animals Causing Damage.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2004, the Legislature amended Section 4181 of the Fish and Game Code and added wild turkeys to the list of species for which the Department issues permits to landowners to kill animals that are damaging property (Senate Bill 1153). To provide consistency with the code change, the Department is proposing that Section 401 of Title 14, which provides for the issuance of these permits, be amended to include wild turkeys.

Additional minor amendments are proposed, which would make this section more clear and more consistent with current code and regulation sections. These minor amendments are as follows:

1. Update the title and number designating the form which is used to apply for depredation permits.
2. Change the wording in Subsection 401(a) to state that, when depredation permits are applied for in situations where damage has not yet occurred, but damage is threatened, the damage must be immediately threatened. This change would make the regulation more consistent with the authorizing code section, which states that the Department shall issue depredation permits “. . . upon satisfactory evidence of the damage or destruction, actual or immediately threatened. . .”.
3. Delete the subsection that requires that bear traps be placed only within pens, and that signs warning of bear traps be posted. This subsection is no longer needed, since the use of metal-jawed traps for bears is now prohibited.
4. Change the wording in Subsection (d)(3) to require that a permittee kill depredating animals in a humane manner, from wording that states that a

permittee shall make "every effort" to kill the animals instantly. It is unclear what "every effort" might entail.

5. Delete the requirement that squirrels and beavers be tagged when taken under depredation permits. The Department believes that tagging each squirrel and beaver is unnecessary.
6. Add a requirement that report portions of tags issued in conjunction with depredation permits be mailed to the Department after animals are killed. This is the procedure currently being followed, but mailing of the report tags is not required in existing regulation wording.
7. Other minor changes are proposed for clarity.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 1050 Monterey Street, 2nd floor, San Luis Obispo, California on Friday, August 19, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 15, 2005 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than August 19, 2005, at the hearing in San Luis Obispo, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Jon Fischer or Jon Snellstrom at the preceding address or phone number. **Tom Blankinship, Wildlife Programs Branch, Department of Fish and Game, phone (916) 445-3615, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested

may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation change is sufficiently minor that there would be no significant impact to businesses.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

## CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 711 and 8591 of the Fish and Game Code and to implement, interpret or make specific Sections 710.7, 711, 8140, 8590, 8591, 8593, 8594, 8595, 8842, 9000, 9001, 9004–9008 and 9015 of said Code, proposes to amend Section 180.1, Title 14, California Code of Regulations, relating to Spot Prawn Trap Construction.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations establish the season structure and other requirements for the commercial spot prawn (*Pandalus platyceros*) fishery and authorize the types of fishing gear that may be used in the fishery.

Plastic or wire webbing has been used in the spot prawn fishery since the implementation of the current regulations in 1995. Under current regulations (Subsection 180.1(b), Title 14, CCR), spot prawn traps are required to be made with plastic or wire mesh only. Synthetic rope or twine woven into a web mesh is another material commonly used for prawn trap construction on the Pacific coast from Oregon to Alaska.

The proposed regulation change would remove the language referring to plastic and wire to allow for other materials to be used for web construction in spot prawn traps.

This proposed regulation change will not change current authorization on mesh size, trap limits, trap destruction devices, or season structure and will allow greater flexibility to the fishery while also meeting biological needs.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 1050 Monterey Street, 2nd Floor, San Luis Obispo,

California on Friday, August 19, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 12, 2005, at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 16, 2005. Oral and written comments will be accepted at the Commission's August 19, 2005, hearing in San Luis Obispo, CA. All comments must be received no later than August 19, 2005, at the hearing in San Luis Obispo, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Ms. Marija Vojkovich, Offshore Ecosystem Coordinator in the Department's Marine Region, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following



initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed action removes the language specifying only plastic and wire can be used for web material.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 202 and 355 of the Fish

and Game Code and to implement, interpret or make specific Sections 202, 355 and 356 of said Code, proposes to amend Section 502, Title 14, California Code of Regulations, relating to Waterfowl, Migratory; American Coot and Common Moorhen.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and establish daily bag and possession limits. In addition to the five proposals contained herein, the U.S. Fish and Wildlife Service (Service), through the analysis of waterfowl population survey and other data, may also initiate changes in federal regulations which will require changes in existing and proposed regulations in California. Changes in federal regulations for season opening and closing dates, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. Three (items 1, 3, and 4) of the five proposed changes to state regulations require changes in the federal regulations. These proposals must be approved by the Pacific Flyway Council at their meeting on July 20, 2005. The Service will consider these and other recommendations at their meeting on July 27–28, 2005. Item 5 (including the table) below proposes a range of season dates and bag limits for waterfowl. At this time, the California Breeding Pair Survey has not been conducted and the Service has not established federal regulation “frameworks” which occurs in late July after the analysis of current waterfowl population survey, other data, input from the Flyway Councils and the public. Also, minor editorial changes were made to clarify and simplify the regulations and to comply with existing federal frameworks.

1. Remove the Sacramento Valley (East) Special Management Area and allow the take of Canada geese in that area throughout the Balance of State Zone goose season.
2. Remove the Imperial County Special Management Area and eliminate the special hunting season for white geese.
3. Increase the white goose daily bag limit in all zones from 3 to 4; which results in an increase in the overall goose daily bag limit in the Northeastern California, Southern San Joaquin Valley, and Balance of State zones.
4. Increase the Small Canada goose daily bag limit to 4 in the Northeastern California, Southern San Joaquin Valley, and Balance of State zones.

5. Provide a range of season lengths (which may be split into two segments) between 0 and 107 days for the general duck season and 0 and 100 days for the general goose season. A range of daily bag limits is also given for ducks in all zones and geese in the Northeastern California, Southern Joaquin Valley, and Balance of State zones. There are no anticipated or proposed changes to the goose daily bag limit in the Southern California and Colorado

River zones. Also, federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone. In addition, regulations for black brant are expected to become more restrictive. Winter counts in 2004–05 were low enough to trigger harvest restrictions as identified in the Flyway Management Plan. See the following table.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
<b>Statewide</b>	Coots & Moorhens	Concurrent w/duck season	25/day. 25 in possession.
	Black Brant	15 day or 18 day split season	2/day. Possession limit double the daily bag.
<b>Northeastern Zone</b>	Ducks	Between 38 & 100 days	4–7/day, no more than 3–7 mallards, no more than 1–2 hen mallards, 0–3 pintail, 0–1 canvasback, 2 redheads, 0–4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	3–4/day, up to 3–4 white geese, up to 2 white-fronts, up to 2 Large Canada geese, up to 1–4 Small Canada geese. Possession limit double the daily bag.
	Geese	Between 0 & 100 days	
<b>Southern San Joaquin Valley Zone</b>	Ducks	Between 38 & 100 days	4–7/day, no more than 3–7 mallards, no more than 1–2 hen mallards, 0–3 pintail, 0–1 canvasback, 2 redheads, 0–4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	3–4/day, up to 3–4 white geese, up to 3 white-fronts, up to 3 Large Canada geese, up to 1–4 Small Canada geese. Possession limit double the daily bag.
	Geese	Between 0 & 100 days	
<b>Colorado River Zone</b>	Ducks	Between 38 & 101 days	4–7/day, no more than 3–7 mallards, no more than 2 hen mallards or Mexican-like ducks, 1–3 pintail, 0–1 canvasback, 2 redheads, 0–4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 101 days	
	Canvasback	Between 0 & 101 days	6/day, up to 3–4 white geese, up to 3 dark geese. Possession limit double the daily bag.
	Geese	101 days	
<b>Southern California Zone</b>	Ducks	Between 38 & 100 days	4–7/day, no more than 3–7 mallards, no more than 1–2 hen mallards, 0–3 pintail, 0–1 canvasback, 2 redheads, 0–4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	5/day, up to 3–4 white geese, up to 3 white-fronted geese, up to 3 Large Canada geese, up to 3 Small Canada geese. Possession limit double the daily bag.
	Geese	Between 0 & 100 days	
<b>Balance of State Zone</b>	Ducks	Between 38 & 100 days	4–7/day, no more than 3–7 mallards, no more than 1–2 hen mallards, 0–3 pintail, 0–1 canvasback, 2 redheads, 0–4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	3–4/day, up to 3–4 white geese, up to 3 white-fronts, up to 3 Large Canada geese, up to 1–4 Small Canada geese. Possession limit double the daily bag.
	Geese	Between 0 & 100 days	
<b>SPECIAL AREA REGULATIONS</b>	<b>SPECIES</b>	<b>SEASON</b>	<b>DAILY BAG &amp; POSSESSION LIMITS</b>
North Coast	All Canada Geese	Between 0 & 100 days	2–4/day, only 1 may be a Large Canada goose. Possession limit double the daily bag.
South Humboldt Bay	All species	Closed during brant season	
Sacramento Valley (West)	White-fronted geese	Closed after Dec. 14	2/day. Possession limit double the daily bag.
Morro Bay	All species	Open in designated areas only	
Martis Creek Lake	All species	Closed until Nov. 16	



YOUTH HUNTING DAYS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	The Saturday fourteen days before the opening of waterfowl season extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Southern California Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Colorado River Zone		The Saturday following the closing for waterfowl season.	
Balance of State Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
FALCONRY TAKE OF DUCKS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	Between 38 and 105 days	3/day, possession limit 6
Balance of State Zone		Between 38 and 107 days	
Southern San Joaquin Valley Zone		Between 38 and 107 days	
Southern California Zone		Between 38 and 107 days	
Colorado River Zone	Ducks only	Between 38 and 106 days	

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 1050 Monterey Street, 2nd Floor, San Luis Obispo, California on Friday, August 19, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 12, 2005, at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 16, 2005. All comments must be received no later than August 19, 2005, at the hearing in San Luis Obispo, CA. All written comments must include the true names and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **John Carlson, Department of Fish and Game, phone (916) 445-3555, has been designated**

**to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

## IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

## EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

## CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 15. DEPARTMENT OF CORRECTIONS

### NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

#### CALIFORNIA CODE OF REGULATIONS

#### TITLE 15, CRIME PREVENTION AND CORRECTIONS

#### DIVISION 3, DEPARTMENT OF CORRECTIONS

**NOTICE IS HEREBY GIVEN** that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend section 3335 in the California Code of Regulations (CCR), Title 15, Division 3, relating to the frequency with which the case factors of inmates detained in segregated housing are reviewed by an Institution Classification Committee (ICC).

#### PUBLIC HEARING

Date and Time: **September 7, 2005, 10:00 a.m.–12:00 p.m.**

Place: Resource Agency Auditorium  
1416 Ninth Street  
Sacramento, CA 95814

Purpose: To receive comments about this action.

#### PUBLIC COMMENT PERIOD

The public comment period will close **September 7, 2005 at 5:00 pm.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 358-2636; or by e-mail at [RPMB@executive.corr.ca.gov](mailto:RPMB@executive.corr.ca.gov) before the close of the comment period.

#### CONTACT PERSON

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief,  
Regulation and Policy Management Branch  
Department of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Telephone: (916) 358-1655

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

John McClure  
Regulation and Policy Management Branch  
Telephone: (916) 358-1655

Questions regarding the substance of the proposed regulatory action should be directed to:

Mike Mott, Correctional Counselor III  
Institutions Division  
Telephone: (916) 322-7150.

#### LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

#### FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

#### ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION, OR EXPANSION

The Department has determined that the proposed regulation will have no affect on the creation of new or

the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

#### AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.corr.ca.gov>.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

#### AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

This action will amend Title 15, Section 3335, in that when an act of violence is committed in an institution by an inmate, the perpetrator is removed from the general population and placed in an Administrative Segregation Unit (ASU) and will receive a due process review by an ICC to ensure that their restriction in liberty is justified. Section 3335 stipulates that an initial review by the ICC occur within 10 days of placement, and subsequent reviews occur every 30 days thereafter until the inmate is released. Over the past several years violence within the Department has increased such that there has been a corresponding increase in the ASU population. In an effort to handle the increase in workload with existing staff resources, inmates that are housed in ASU for less than serious disciplinary reasons will appear before an ICC within every 90 days, and within every 180 days for disciplinary reasons. This change will allow ICC to take action on a case as soon as possible, but not waste staff or committee time routinely reviewing cases on which action is not yet possible due to an incomplete investigation or a pending rules violation report. Staff time in attempting to conduct the additional hearings in which no action is possible could result in some inmates having their liberty impacted by not conducting a due process review at a time when the matters surrounding placement have been resolved and release or transfer could have been accomplished.

## **TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs Medical Board of California 1424 Howe Avenue, Conference Room F, Sacramento, California 95825, on August 18, 2005 from 1:30 p.m. to 3:30 p.m. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on August 15, 2005 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full

text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Business and Professions Code Sections 2531.95 and 651 and to implement, interpret or make specific Sections 2532.2, 651, 2533, and 17500 of the Business and Professions Code, the Board is considering changes to Division 13.4 of Title 16 of the California Code of Regulations as follows:

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Speech-Language Pathology and Audiology Board ("Board") is authorized by Business and Professions Code Sections 2531.95 to adopt regulations necessary to implement the Speech-Language Pathology and Audiology Licensure Act. Section 2532.2 sets forth the required qualifications for individuals seeking licensure as speech-language pathologists and audiologists and authorizes the Board to establish criteria for the approval of educational institutions providing professional training. Further, Sections 651 and 17500 prohibits licensees from using false or misleading statements in any public communication and Section 2533 of the Code provides that such activity is grounds for disciplinary action.

The proposed amendment of Section 1399.152 deletes antiquated accreditation criteria applicable to speech-language pathology and audiology educational institutions and provides for contemporary educational standards for professional training programs. Further Section 1399.156.4 defines the parameters for licensees to advertise earned academic degrees from legitimate degree granting institutions in a manner that does not deceive or mislead the public.

### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic



impact directly effecting business, including the ability of California businesses to compete with businesses in other states.

**AND**

The following studies/relevant data were relied upon in making the above determination:

The American Speech-Language-Hearing Association's Council on Academic Accreditation in Audiology and Speech-Language Pathology "Standards for Accreditation of Graduate Education Programs in Audiology and Speech-Language Pathology," effective January 1, 1999 (Revised February 2004, May 2004).

To establish the proposed doctoral program criteria, the Board surveyed a sampling of audiology doctoral training programs and identified the comprehensive and consistent standard for academic and clinical doctoral training.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulatory action would not affect small businesses as it makes technical changes to the Board's licensure qualifications and clarifies professional advertising provisions.

**CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

**TEXT OF THE PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Speech-Language Pathology and Audiology Board at 1422 Howe Avenue, Suite 3, Sacramento, CA 95825.

**AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

**CONTACT PERSON**

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Candace Raney, Board Analyst  
Address: 1422 Howe Avenue, Suite 3  
Sacramento, CA 95825  
Telephone No.: (916) 263-2666  
Fax No.: (916) 263-2668  
E-Mail Address: Candace\_Raney@dca.ca.gov

The backup contact person is:

Name: Annemarie Del Mugnaio, Executive Officer  
Address: 1422 Howe Avenue, Suite 3  
Sacramento, CA 95825  
Telephone No.: (916) 263-2666  
Fax No.: (916) 263-2668  
E-Mail Address: Annemarie\_DelMugnaio@dca.ca.gov

**WEBSITE ACCESS**

Materials regarding this proposal can be found at [www.slpab.ca.gov](http://www.slpab.ca.gov).

**TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology Board is proposing to take the action described in the Informative Digest. No public hearing has been scheduled on the proposed action. However, any interested person or such person's duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to



Section 11346.8. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on August 15, 2005. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 2531.95 and 2532.6(a) of the Business and Professions Code, and to implement, interpret or make specific The Public Records Act (Govt. Code § 6250 et seq.) and The Information Practices Act (Civ. Code § 1798 et seq.), the Board is considering changes to Division 13.4 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Speech-Language Pathology and Audiology ("Board") is authorized by Business and Professions Code Section 2531.95 to adopt regulations necessary to implement the Speech-Language Pathology and Audiology Licensure Act.

Government Code Section 6250 states " . . . access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

The proposed adoption of Sections 1399.180 through 1399.187 will provide maximum disclosure to the public consistent with governing statutory and constitutional law.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic

impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed changes will affect the parameters of the Board's information disclosure policy, which applies to all Board licensees.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments in writing relevant to the above determinations at the board address provided under the contact information below.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Speech-Language Pathology and Audiology Board at 1422 Howe Avenue, Suite 3, Sacramento, California, 95825.

AVAILABILITY AND LOCATION OF THE  
FINAL STATEMENT OF REASONS AND  
RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Candace Raney, Board Analyst  
Address: 1422 Howe Avenue, Suite 3  
Sacramento, CA 95825  
Telephone No.: (916) 263-2666  
Fax No.: (916) 263-2668  
E-Mail Address: Candace\_Raney@dca.ca.gov

The backup contact person is:

Name: Annemarie Del Mugnaio, Executive Officer  
Address: 1422 Howe Avenue, Suite 3  
Sacramento, CA 95825  
Telephone No.: (916) 263-2666  
Fax No.: (916) 263-2668  
E-Mail Address: Annemarie\_DelMugnaio@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at [www.slpab.ca.gov](http://www.slpab.ca.gov).

**TITLE 22. DEPARTMENT OF  
SOCIAL SERVICES**

NOTICE OF PROPOSED CHANGES IN  
REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF  
SOCIAL SERVICES (CDSS)  
ORD #1103-28

ITEM # 1 Family Child Care Home Reporting Re-  
quirements and Family Child Care Con-  
sumer Awareness Information

CDSS hereby gives notice of the proposed regula-  
tory action(s) described below. Any person interested  
may present statements or arguments orally or in

writing relevant to the proposed regulations at a public  
hearing to be held August 17, 2005, as follows:

August 17, 2005  
Office Building #9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and  
will remain open only as long as attendees are  
presenting testimony. The Department will adjourn the  
hearing immediately following the completion of  
testimony presentations. The above-referenced facility  
is accessible to persons with disabilities. If you are in  
need of a language interpreter at the hearing (including  
sign language), please notify the Department at least  
two weeks prior to the hearing.

Statements or arguments relating to the propos-  
als may also be submitted in writing, e-mail, or  
by facsimile to the address/number listed below.  
All comments must be received by 5:00 p.m. on  
August 17, 2005.

CDSS, upon its own motion or at the instance of any  
interested party, may adopt the proposals substantially  
as described or may modify such proposals if such  
modifications are sufficiently related to the original  
text. With the exception of nonsubstantive, technical,  
or grammatical changes, the full text of any modified  
proposal will be available for 15 days prior to its  
adoption to all persons who testify or submit written  
comments during the public comment period, and all  
persons who request notification. Please address  
requests for regulations as modified to the agency  
representative identified below.

Copies of the express terms of the proposed  
regulations and the Initial Statement of Reasons are  
available from the office listed below. This notice, the  
Initial Statement of Reasons and the text of the  
proposed regulations are available on the internet at  
<http://www.dss.cahwnet.gov/ord>. Additionally, all the  
information which the Department considered as the  
basis for these proposed regulations (i.e., rulemaking  
file) is available for public reading/perusal at the  
address listed below.

Following the public hearing, copies of the Final  
Statement of Reasons will be available from the office  
listed below.

CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

## CHAPTERS

California Code of Regulations, Title 22, Division 12, Chapter 3 (Family Child Care Homes), Sections 102416.2 (Reporting Requirements Including Unusual Incidents and Injuries), 102416.3 (Alterations to Existing Building or Grounds), 102419 (Admission Procedures and Parental and Authorized Representative's Rights), and 102423 (Personal Rights).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Family Child Care Home (FCCH) regulations include requirements that licensees need to follow in order to provide care for children in this type of facility, but do not include requirements for the licensee to report unusual incidents and injuries or alterations to existing building or grounds.

These regulations establish and specify reporting requirements for FCCH licensees pursuant to Assembly Bill (AB) 685 (Wayne), Chapter 679, Statutes of 2001. The regulations will require licensees to notify parents/authorized representatives and the California Department of Social Services (CDSS) of any unusual incident or injury to any child while in care in a licensed FCCH. These regulations also include reporting requirements to enhance the health and safety of children in care. Additionally, these regulations require licensees to provide the Family Child Care Consumer Awareness Information, LIC 9212 (2/05), to the parent/authorized representative of children at the time of their admission into a FCCH.

Adopting Section 102416.2 ensures that FCCH licensees will notify the Department and parents/authorized representatives of a child in care who is the subject of an unusual incident or injury that requires medical attention. Adopting Section 102416.3 ensures FCCH licensees report to the Department any plans for alterations to existing building and grounds. Adding these sections increases the Department's ability to protect children in care.

Amending Sections 102419 and 102423 implements the Department's policy that all parents/authorized representatives must receive the Family Child Care Consumer Awareness Information to assist them in making informed choices about the placement of their children.

## COST ESTIMATE

1. Costs or Savings to State Agencies: Funding and positions were established on a permanent basis when AB 685 (Chapter 679, Statutes of 2001) was passed.
2. Costs to Local Agencies or School Districts: Additional expenditures of approximately \$80,000 in the current State Fiscal Year which are reimburs-

able by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code.

3. Nondiscretionary Costs or Savings to Local Agencies: N/A
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

## LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code.

## STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## SMALL BUSINESS IMPACT STATEMENT

These proposed regulations implement the provisions of AB 685, Chapter 679, Statutes of 2001 which added Section 1597.457 to the Health and Safety Code to establish reporting requirements for family child care home licensees. Licensees must report to the Department and the parents/authorized representatives of a child in care who is the subject of an unusual incident or injury requiring medical treatment. The regulations specify the LIC 624B (06/03), Unusual Incident/Injury Report—Family Child Care Home, is to be used by the licensee to report unusual incidents or injuries to the Department. Additionally, these regulations will establish the Department's authority to require that licensees provide the Family Child Care Consumer Awareness Information LIC 9212 (2/05), to parents/authorized representatives at the time their child is placed in care. This information provides parents with a health and safety checklist for FCCHs and provides other useful information to assist them in making informed decisions about the placement of their child in a licensed FCCH.

FCCH licensees are required to maintain adequate supplies of the required forms. It is anticipated that this will have a minimal financial impact on FCCH



licensees. Licensees will be required to complete and submit the incident reports to the Department and advise the parents/authorized representatives of children involved in unusual incidents or injuries upon occurrence.

Failure by the licensee to comply with these regulations could result in the possible revocation of the license. The revocation of a license would result in loss of income for the licensee and any paid assistants they may have. Additionally, parents/authorized representatives would be greatly impacted with the loss of care for their children and may lose income if they cannot immediately secure other day care services for their children and are not able to work.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1596.81 and 1597.46. Subject regulations implement and make specific Health and Safety Code Sections 1596.72, 1596.73, 1596.81, 1597.05, and 1597.467; Penal Code Section 11166; and Title 17, Section 2500.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Everardo Vaca  
(916) 657-2586

Backup: Alison Garcia  
(916) 657-2586

## TITLE 22. DEPARTMENT OF SOCIAL SERVICES

### NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS) ORD #1104-06

#### ITEM # 2 Foster Youth Personal Rights

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 17, 2005, as follows:

August 17, 2005  
Office Building #9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 17, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.



Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: ord@dss.ca.gov

#### CHAPTERS

California Code of Regulations, Title 22, Division 6, Chapter 4, Sections 83064 (Licensee Duties and Responsibilities), 83072 (Personal Rights); Chapter 5, Sections 84022 (Plan of Operation), 84072 (Personal Rights); Chapter 5, Subchapter 1, Section 84172 (Personal Rights); Chapter 7, Sections 86022 (Plan of Operation), 86072 (Personal Rights); Chapter 8.8, Section 88022; Chapter 9.5, Sections 89372 (Personal Rights), and 89379 (Activities).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current community care facilities regulations list personal rights accorded to children in out-of-home placement as specified in Section 16001.9 of the Welfare and Institutions Code. Assembly Bill (AB) 458, Chapter 331, Statute of 2003 and Senate Bill (SB) 1639, Chapter 668, Statute of 2004, further amended Section 16001.9 of the Welfare and Institutions Code by adding additional personal rights.

AB 458 accords foster children the right to have fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. This statute provides specific anti-discrimination policies protecting foster care youth statewide and ensures consistent implementation throughout the state.

SB 1639 accords foster children who are 16 years old or older the right to have access to postsecondary educational and vocational opportunities available and financial aid information for those programs. Foster youth face numerous barriers to educational and training opportunities, including the lack of information about postsecondary education and financial aid opportunities. This personal right will benefit foster youth by increasing access to higher education and training information and reducing informational barriers.

Proposed regulations have been developed to incorporate the provisions of AB 458 and SB 1639 by amending the personal rights sections in group home, small family home, community treatment facility, transitional housing placement program, and foster family home regulations.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
4. Federal Funding to State Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies but not on local school districts. There are no reimbursable state-mandated costs under section 17500, et seq. of the Government Code, because these regulations only make technical and clarifying changes.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of

California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1530, 1530.5, 1531, 1530.9, 1559.110. Subject regulations implement and make specific Welfare and Institution Code Sections 16001.9.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Sonya Mangabay  
(916) 657-2586  
Backup: Alison Garcia  
(916) 657-2586

## TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

#### NOTICE OF PROPOSED RULEMAKING

The Emergency Medical Services Authority (EMS Authority) proposes to adopt the proposed EMT-I regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The EMS Authority will hold a public hearing to permit all interested parties the opportunity to present statements, arguments, written materials, or contentions relevant to the proposed action described in the informative digest. The public hearing will be held on:

Date: August 15, 2005  
Time: 12:30 p.m. to 2:00 p.m.  
Location: EMS Authority, 1930 9th Street  
Sacramento, CA 95814

The facility to be used for the public hearing is accessible to persons with mobility impairments. Persons with sight or hearing impairments are asked to write Sean Trask at the address above or call Mr. Trask

at (916) 322-4336, extension 408 to make special arrangements, if necessary.

#### WRITTEN COMMENT PERIOD

Interested persons are invited to submit written comments on the proposed regulatory action to the EMS Authority. The written comment period end closes at **5:00 p.m. on August 15, 2005**. The EMS Authority will consider only comments received at the EMS Authority office by that time. Submit comments to:

Sean Trask, Manager, Personnel Standards Unit  
EMS Authority  
1930 9th Street  
Sacramento, CA 95814  
Telephone: (916) 322-4336, extension 408  
Fax: (916) 324-2875  
E-mail: [sean.trask@emsa.ca.gov](mailto:sean.trask@emsa.ca.gov)

#### AUTHORITY AND REFERENCE

The Health and Safety Code, Section 1797.107 authorizes the EMS Authority to adopt the proposed regulations, which would implement, interpret, or make specific Sections 1797.109, 1797.170, 1797.176, and 1797.210 of the Health and Safety Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The EMS Authority proposes to amend several sections of Chapter 2 of Division 9, of Title 22. These amendments are intended to clarify and make consistent various subsections that impact training and certification requirements for EMT-Is.

Health and Safety Code, Section 1797.210 provides for the EMS Authority to establish certification, recertification, and continuing education requirements for EMT-I certifying authorities.

These proposed regulations are intended to:

1. Clarify that public safety agencies may recertify public safety EMT-Is using continuing education units.
2. Separate continuing education training from EMT-I refresher courses in order to clarify that EMT-I refresher courses and continuing education courses fall under separate approvals, regulations, and requirements.
3. Make consistent different subsections regarding course completion challenge provisions for EMT-I certification.
4. Clarify that a course completion record from an initial EMT-I training course is required for initial EMT-I certification.
5. Clarify out-of-state EMT-I certification reciprocity for holders of an out-of-state EMT-I certificate.

## DISCLOSURES REGARDING THE PROPOSED ACTION

The EMS Authority has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None
- Costs to any local agency or school district which must be reimbursed in accordance with the Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
  - (1) create or eliminate jobs within California;
  - (2) create new businesses or eliminate existing businesses with California; or
  - (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None.

## SMALL BUSINESS DETERMINATION

The EMS Authority has determined that the proposed regulation does not affect small business because these revisions are intended to clarify and make consistent various sections of this Chapter that were overlooked in the previous revision. The proposed regulations do not result in an increase or savings in costs or responsibilities for small businesses.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the EMS Authority must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The EMS Authority invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## CONTACT PERSON

### Primary Contact Person:

Sean Trask  
Manager, Personnel Standards Unit  
EMS Authority  
1930 9th Street  
Sacramento, CA 95814  
e-mail: [sean.trask@emsa.ca.gov](mailto:sean.trask@emsa.ca.gov)  
Phone: (916) 322-4336, extension 408  
Fax: (916) 324-2875

### Alternate Contact Person:

Julie Hamilton  
Basic Life Support Coordinator  
EMS Authority  
1930 9th Street  
Sacramento, CA 95814  
Email: [Julie.hamilton@emsa.ca.gov](mailto:Julie.hamilton@emsa.ca.gov)  
Phone: (916) 322-4336, extension 461  
Fax: (916) 324-2875

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Trask at the above address.

## AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The EMS Authority will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. The rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Mr. Trask at the address above.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and after considering all timely and relevant comments received, the Commission on Emergency Medical Services may approve for adoption and the EMS Authority may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the EMS Authority will make the modified text, with the changes clearly indicated, available to the public for at least 15-days before adoption of the regulations as revised. Please send requests for copies of any modified regulations to the attention of Sean Trask at the address indicated above. The EMS Authority will accept written comments on the modified regulations for 15-days after the date on which they are made available.

AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Sean Trask at the above address.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format, can be accessed through the EMS Authority's website at [www.emsa.ca.gov](http://www.emsa.ca.gov).

**TITLE 22/MPP. DEPARTMENT OF  
SOCIAL SERVICES**

NOTICE OF PROPOSED CHANGES IN  
REGULATIONS OF THE CALIFORNIA  
DEPARTMENT OF SOCIAL SERVICES (CDSS)  
ORD #0704-04

Item #4 Food Stamp Eligibility for Drug Felons

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 17, 2005 as follows:

August 17, 2005

State Office Building #9  
744 P Street, Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The CDSS will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on August 17, 2005.

The CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification.

Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice and the proposed regulations are also available online at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Alison Garcia, Manager  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

CHAPTERS

Manual of Policies and Procedures (MPP), Food Stamp Regulations, Division 63-400, Eligibility Standards, Section 63-402, Household Concept.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

These regulations implement the provisions of Assembly Bill (AB 1796) which made changes to Welfare and Institutions Code Section 18901.3 by extending food stamp benefits to individuals convicted of felony drug offenses for the use or possession of a controlled substance(s). Current federal law prohibits extending food stamp benefits to individuals convicted of felony drug offenses unless the state opts out of this prohibition by passing a state law. The purpose of AB 1796 is to opt out of the federal prohibition, and modify the federal ban.

Upon implementation, the mandatory changes to the Food Stamp Program extend food stamp eligibility to individuals convicted of felony drug offenses for the use or possession of a controlled substance. Individuals convicted of felony drug offenses for unlawfully transporting, importing, selling, furnishing, administering, giving away, possessing for sale, purchasing for purposes of sale, or manufacturing a controlled substance shall continue to be ineligible for food stamp assistance.



#### COST ESTIMATE

1. Costs or Savings to State Agencies: Additional expenditures of \$28,000 in the current state fiscal year (SFY).
2. Costs to Local Agencies or School Districts: A nominal increase of \$11,000 in local expenditures for food stamp administration.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: Additional expenditures of \$36,000 in the current SFY.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not school districts. There may be "state-mandated local costs" in these regulations, which require federal and state reimbursement due to increased administrative costs under Section 17500 et seq. of the Government Code. The local agencies, State, and federal agencies share administrative costs. Increased costs in benefits are paid entirely by the federal government.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations makes only technical, nonsubstantive or clarifying changes to current law and regulation.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific Welfare and Institutions Code Section 18901.3.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Rick Torres  
(916) 657-2659  
Backup: Alison Garcia  
(916) 657-2586

#### TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

#### NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS) ORD #0704-05

#### ITEM # 3 Adult Day Programs

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 17, 2005, as follows:

August 17, 2005  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 17, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

California Code of Regulations (CCR), Division 6, Chapter 3 (Adult Day Care Facilities), Article 1, (General Requirements), Sections 82000 (General), 82001 (Definitions), and 82003 (Definitions—Forms); Article 2 (Licensing), Sections 82005 (License Required), 82006 (Operation Without a License), 82007 (Exemption From Licensure), 82009 (Posting of License), 82010 (Limitations on Capacity), and 82012 (False Claims); Article 3 (Application Procedures), Sections 82017 (Nondiscrimination of Applicants), 82018 (Application for License), 82019 (Criminal Record Clearance), 82019.1 (Criminal Record Exemption), 82020 (Fire Clearance), 82021 (Water Supply), 82022 (Plan of Operation), 82023 (Disaster and Mass Casualty Plan), 82024 (Waivers and Exceptions), 82027 (Initial Application Review), 82028 (Capacity Determination), 82029 (Withdrawal of Application), 82030 (Provisional License), 82031 (Issuance of License), 82034 (Submission of a New Application), 82035 (Conditions for Forfeiture of a License), and

82036 (Licensing Fees); Article 4 (Administrative Actions), Sections 82040 (Denial of License), 82042 (Revocation or Suspension of License), 82044 (Inspection Authority of the Licensing Agency), and 82046 (Exclusions); Article 5 (Enforcement Provisions), Sections 82051 (Serious Deficiencies), 82052 (Deficiencies in Compliance), 82053 (Follow-up Visits to Determine Compliance), 82054 (Penalties), 82055 (Administrative Review), 82055.1 (Responsibility for Civil Penalties), 82056 (Exemption from Civil Penalties), 82058 (Unlicensed Adult Day Program Penalties), and 82059 (Unlicensed Day Program Administrative Appeal); Article 6 (Continuing Requirements), Sections 82061 (Reporting Requirements), 82062 (Finances), 82063 (Accountability), 82064 (Administrator—Qualifications and Duties), 82065 (Personnel Requirements), 82065.1 (Personnel Qualifications and Duties), 82065.5 (Staff-Client Ratios), 82066 (Personnel Records), 82068 (Admission Agreements), 82068.2 (Needs and Services Plan), 82068.3 (Modifications to Needs and Services Plan), 82068.5 (Procedures for Discharge), 82069 (Client Medical Assessments), 82070 (Client Records), 82071 (Register of Clients), 82072 (Personal Rights), 82073 (Telephones), 82074 (Transportation), 82075 (Health-Related Services), 82075.1 (Daily Inspection for Illness), 82075.2 (Automated External Defibrillators AEDS)), 82076 (Food Service), 82077 (Personal Services), 82077.2 (Care for Clients Who Rely Upon Others to Perform All Activities of Daily Living), 82077.4 (Care for Clients with Incontinence), 82077.5 (Care for Clients with Contractures), 82078 (Responsibility for Providing Care and Supervision), and 82079 (Planned Activities); Article 7 (Physical Environment), Sections 82086 (Alterations to Existing Buildings or New Facilities), 82087 (Buildings and Grounds), 82087.2 (Outdoor Activity Space), 82087.3 (Indoor Activity Space), 82087.4 (Storage Space), 82088 (Fixtures, Furniture, Equipment, and Supplies), and 82088.2 (Drinking Water); Article 8 (Incidental Medical Services), Sections 82091 (Prohibited Health Conditions), 82092 (Restricted Health Conditions), 82092.1 (General Requirements for Restricted Health Conditions), 82092.2 (Restricted Health Condition Care Plan), 82092.3 (Inhalation-Assistive Devices), 82092.4 (Colostomy/Ileostomy), 82092.5 (Fecal Impaction Removal, Enemas, or Suppositories), 82092.6 (Indwelling Urinary Catheter/Catheter Procedure), 82092.7 (Staph or Other Serious, Communicable Infections), 82092.8 (Diabetes), 82092.9 (Wounds), 82092.10 (Gastrostomy Feeding, Hydration, and Care), 82092.11 (Tracheostomies), 82093 (Department Review of Health-Related Conditions); Chapter 3.5 (Adult Day Support Center), Article 1 (General Requirements), Sections 82500 (General) and 82501 (Definitions); Article 2 (Licensing); Article 3 (Appli-

cation Procedures); Article 4 (Administrative Actions); Article 5 (Civil Penalties); Article 6 (Continuing Requirements, Sections 82564 (Administrator—Qualifications and Duties), 82565 (Personnel Requirements), 82565.1 (Personnel Qualifications and Duties), 82565.5 (Staff Participant Ratio), 82568.2 (Needs and Services Plan), 82568.3 (Modifications to the Needs and Services Plan), 82575 (Health-Related Services), 82575.1 (Daily Inspections for Illness), 82576 (Food Services), and 82579 (Activities); Article 7 (Physical Environment), Sections 82587 (Buildings and Grounds), 82587.2 (Outdoor Activity Space), 82587.3 (Indoor Activity Space), 82587.4 (Storage Space), 82588 (Fixtures, Furniture, Equipment, and Supplies), and 82588.2 (Drinking Water); Chapter 1 (General Licensing Requirements), Sections 80000 (General), 80001 (Definitions), 80011 (Advertisements and License Number), 80019 (Criminal Record Clearance), 80036 (Application/Annual Processing Fees), 80068.5 (Eviction Procedures), 80075 (Health-Related Services), 80077.2 (Care for Clients Who Rely Upon Others to Perform all Activities of Daily Living), 80087 (Buildings and Grounds), 80092.2 (Restricted Health Condition Care Plan), 80092.8 (Insulin-Dependent Diabetes), and 80092.9 (Wounds).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, community care facilities (with some exceptions) must meet General Licensing Requirements which are contained in Title 22, Division 6, Chapter 1, Sections 80000 through 80094.5. These general requirements include those regulatory areas which are common to most licensing categories. The regulatory areas, though common to most licensing categories, do contain some requirements applicable only to a specific licensing category. Licensees must also comply with regulations specific to the type of license for which they are applying.

These proposed regulations are the result of Senate Bill (SB) 1982, (Chapter 773, Statutes of 2002). The act added Section 1530.1, amended Section 1502, and repealed Section 1502.2 of the Health and Safety Code. The statute consolidated the Adult Day Care Facilities and Adult Day Support Centers into one program to be known as the Adult Day Programs. Merging of the two programs proposes to improve consumer access to community care licensed programs and minimize complexity and confusion for consumers, providers, and regulators.

The act also revised the definition of adult day program to any community-based facility of program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

To implement the provisions of SB 1982, the Community Care Licensing Division, in conjunction with a workgroup of stakeholders, developed and consolidated the existing adult day care, adult day support center and applicable general licensing regulations into one stand-alone chapter that will govern only adult day programs as allowed in SB 1982, Section 1(b). The workgroup convened in 2003 and included representatives from the California Association for Adult Day Services (CAADS), Lodi Memorial Hospital—Acute Day Care, California Rehabilitation Association, Community Options, Southside Art Center, Advocacy Resources and Choices, California Department of Aging, Developmental Services, and the Department's Legal Division.

Adult day programs provide services to persons with developmental disabilities, elders with functional or cognitive impairments, and other adults needing daytime assistance outside of the home. Adult day programs provide a wide variety of services ranging from respite for caregivers to independent living skill training for persons with developmental disabilities. There is a need to modernize the rules governing the licensure of adult day programs in keeping with the state's policy to offer consumers choices and to provide services in the least restrictive setting.

This regulations package does not contain any substantive changes to the regulations. There are no new regulations introduced in this regulation package. The purpose of this regulation package is to consolidate what previously were three separate and distinct regulation chapters into a single, stand-alone regulation chapter.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state mandated costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.



**STATEMENT OF SIGNIFICANT ADVERSE  
ECONOMIC IMPACT ON BUSINESS**

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**STATEMENT OF POTENTIAL COST IMPACT  
ON PRIVATE PERSONS OR BUSINESSES**

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**SMALL BUSINESS IMPACT STATEMENT**

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations make only technical, non-substantive or clarifying changes to current law and regulation.

**ASSESSMENT OF JOB CREATION  
OR ELIMINATION**

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF ALTERNATIVES CONSIDERED**

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AUTHORITY AND REFERENCE CITATIONS**

The CDSS adopts these regulations under the authority granted in Sections 1502, 1503.1, 1522, 1530, 1530.1, 1547, and 1548, Health and Safety Code; and Section 10554, Welfare and Institutions Code. Subject regulations implement and make specific Sections 1500, 1501, 1502, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1513, 1520, 1520.3, 1520.11, 1522, 1522.1, 1523.1, 1524, 1525, 1525.5, 1526, 1526.5, 1530, 1530.5, 1531, 1533, 1534, 1536.1, 1537, 1538, 1538.5, 1540, 1540.1, 1541, 1547, 1548, 1549, 1550, 1550.5, 1551, 1553, 1556, 1557.5, 1558, 1558.1, 1560, 1561, 1562, 1564, 1569.47, 1797.196, and 13131, Health and Safety Code; Sections 362, 727, 4512, 4803, 5000 et seq., 5350, and 16100,

Welfare and Institutions Code; Section 51, Civil Code; Sections 15376 and 15378, Government Code; Section 1800, Probate Code; Section 42001, Vehicle Code; Section 2881, Public Utilities Code; 20 CFR 416.601, and 29 CFR 1910.1030.

**CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION**

Contact Person: Everardo Vaca  
(916) 657-2586

Backup: Alison Garcia  
(916) 657-2586

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FAIR  
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contracts in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.  
DBA ASI Telesystems, Inc.  
21150 Califa Street  
Woodland Hills, CA 91367

Bay Recycling  
800 77th Avenue  
Oakland, CA 94621

C & C Disposal Service  
P. O. Box 234  
Rocklin, CA 95677

Choi Engineering Corp.  
286 Greenhouse  
Marketplace, Suite 329  
San Leandro, CA 94579

Fries Landscaping  
25421 Clough  
Escalon, CA 95320



Marinda Moving, Inc.  
8010 Betty Lou Drive  
Sacramento, CA 95828

MI-LOR Corporation  
P. O. Box 60  
Leominster, MA 01453

Peoples Ridesharing  
323 Fremont Street  
San Francisco, CA 94105

San Diego Physicians &  
Surgeons Hospital  
446 26th Street  
San Diego, CA

Southern CA Chemicals  
8851 Dice Road  
Santa Fe Springs, CA 90670

Tanemura and Antle Co.  
1400 Schilling Place  
Salinas, CA 93912

Turtle Building Maintenance Co.  
8132 Darien Circle  
Sacramento, CA 95828

Univ Research Foundation  
8422 La Jolla Shore Dr.  
La Jolla, CA 92037

Vandergoot Equipment Co.  
P. O. Box 925  
Middletown, CA 95461

## DEPARTMENT OF FISH AND GAME

### CESA CONSISTENCY DETERMINATION FOR Humboldt Bay Municipal Water District Mad River Operations HCP Humboldt County

The Department of Fish and Game ("Department") received notice on June 17, 2005 that the Humboldt Bay Municipal Water District ("HBMWD") proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of water service and supply operations in the Mad River in Humboldt County including activities related to flow release and management, water diversions, structure repair, and excavation and fill operations.

The National Marine Fisheries Service, on June 9, 2005, issued HBMWD a no jeopardy federal biological opinion (151422SWR1999AR25) and Incidental Take Permit (No. 1488) which considers the Federally and State threatened Southern Oregon/Northern Cali-

fornia Coast (SONCC) Coho salmon (*Oncorhynchus kisutch*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, HBMWD is requesting a determination that federal biological opinion 151422SWR1999AR25 and Incidental Take Permit No. 1488 are consistent with CESA.

If the Department determines that the federal biological opinion is consistent with CESA, HBMWD will not be required to obtain an incidental take permit under CESA for the proposed project.

## DEPARTMENT OF FISH AND GAME

### CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 CESA No. 2080-2005-013-02

PROJECT: Lower Northwest Interceptor Project  
LOCATION: Sacramento and Yolo Counties  
NOTIFIER: Mary K. Snyder, Collections Systems Manager  
APPLICANT: Sacramento Regional County Sanitation District (SRCSD)

### BACKGROUND

The proposed Lower Northwest Interceptor project involves the construction of approximately 20 miles of wastewater conveyance infrastructure and associated operations and maintenance support facilities. The main activity associated with construction of the proposed project is the excavation of an open trench large enough to accommodate two 60-inch diameter force mains to carry sewage effluent along the entire length of the proposed project's alignment. In addition to the installation of the force mains, the proposed project involves the construction of tunnels, gravity lines, manholes, air release valves, blow-off valves, pumping stations, surge tanks, transition structures, valve structures, temporary and permanent access roads, temporary staging areas, power lines, a power substation, and temporary batch plants.

The alignment of the proposed project extends from the existing Natomas Pump Station in northwestern Sacramento County to the Sacramento Regional Wastewater Treatment Plant (SRWTP) in southern Sacramento County. Construction of the proposed project will occur in agricultural, residential and commercial areas in Sacramento and Yolo counties, as well as in the cities of Sacramento and West Sacramento. The proposed project's alignment will traverse private property, reclamation district easements, the Yolo Shortline Railroad and Union Pacific rights-of-way, and city and county road rights-of-way. The proposed project will also tunnel under several waterways including the Sacramento River (in two separate locations), the Barge Canal, Babel Slough,

Morrison Creek, and Laguna Creek. The primary objectives of the proposed project are to: 1) convey the wastewater flow of the Upper Northwest Interceptor to the SRWTP, 2) provide sewer service to the City of West Sacramento, 3) provide relief for the existing Northeast Trunk System, Dry Creek Interceptor, and Arden Pump Station, and 4) provide wastewater flow capacity for future planned growth in the Rio Linda, Natomas and West Sacramento areas.

Because of the project's potential for take of the giant garter snake (*Thamnophis gigas*) (GGS) and other federally protected species, on March 16, 2001 the U.S. Army Corps of Engineers consulted with the U.S. Fish and Wildlife Service (Service), as required by the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.). On September 10, 2004 the Service issued Biological Opinion No. 1-1-04-F-0029 (BO) for the Lower Northwest Interceptor Project (Corps # 200100495) (SCH #2001112085 February 2003 Draft Environmental Impact Report, and SCH #2002092071 May 2003 Final Environmental Impact Report Volume 3 of 3) describing the project actions and setting forth measures to mitigate impacts to GGS and its habitat. GGS is listed as a threatened species under the California Endangered Species Act, Fish and Game Code Sections 2050 et seq. ("CESA"). On May 16, 2005, the Director of the Department of Fish and Game (DFG) received a notice from the Sacramento Regional County Sanitation District (SRCSD) pursuant to Fish and Game Code Section 2080.1, requesting a determination that the BO is consistent with CESA.

#### DETERMINATION

Based on the terms and conditions in the federal BO No. 1-1-04-F-0029, DFG has determined that the project is consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of species protected under CESA. The Department specifically finds that the measures identified in the BO will minimize and fully mitigate the project's potential impacts on GGS. These measures include, but are not limited to, the following requirements:

- 1) Construction activities within GGS habitat will take place between May 1 and October 1 (when GGS are more active);
- 2) Construction personnel will participate in a USFWS-approved environmental awareness training program;
- 3) USFWS approved exclusionary snake fencing will be erected around environmentally sensitive areas clearly defining the GGS habitat to be avoided;

- 4) All GGS habitat will remain dry for 15 consecutive days after April 15th before any excavation or fill of those dewatered habitats occurs;
- 5) Preconstruction clearance surveys of all GGS areas will be performed no more than 24 hours prior to the commencement of any construction related activities by a USFWS approved biologist before any excavation or fill of those dewatered habitats occurs. Additionally, these areas will be checked by the USFWS approved biologists on a daily basis every day thereafter and until construction activities are completed within GGS areas;
- 6) Following the completion of construction activities, any temporary fill or construction debris will be removed and disturbed areas will be restored to pre-project conditions;
- 7) If a GGS is encountered during implementation of the project, appropriate steps will be taken by the on-site biologist in accordance with the GGS measures identified in the BO; and
- 8) If a lapse of two or more weeks in construction activities occurs, no further construction may occur until the area has been resurveyed by the on-site biologist and it is verified by the biologist that GGS are free of harm, harassment or mortality.
- 9) SRCSD has purchased off-site GGS habitat credits from Wildlands, Inc. conservation bank and mitigated pursuant to the Natomas Basin Habitat Conservation Plan. Based on the required measures in the BO for mitigating impacts to GGS wetlands, SRCSD has purchased 9.11 acres for impacts to GGS in the Natomas Basin, 3.76 acres at the Wildlands, Inc. South Stone Lakes property, and 156.8 acres at the Wildlands, Inc. Pope Ranch property in Yolo County.
- 10) SRCSD and its contractors have also agreed to comply with all conditions identified in the BO and FEIR for construction activities within GGS habitat.

Pursuant to Fish and Game Code section 2080.1, incidental take authorization under CESA will not be required for incidental take of GGS resulting from project activities, provided that SRCSD implements the project as described in the BO and complies with the mitigation measures and other conditions described therein. If there are any substantive changes to the project, including changes to the project description or mitigation measures, or if the Service amends or replaces the BO, SRCSD will be required to obtain a new consistency determination or a CESA incidental take permit from DFG.

**DEPARTMENT OF FISH AND GAME****CONSISTENCY DETERMINATION**

Fish and Game Code Section 2080.1

Tracking Number 2080-2005-014-01

**PROJECT:** Mad River Bridge Replacement Project  
State Route 101

**LOCATION:** post mile 89.2 to 90.4, Humboldt County

**NOTIFIER:** California Department of Transportation (Caltrans), District 1, Eureka

**BACKGROUND**

Caltrans is proposing to replace the north and southbound bridges over the Mad River on State Route (SR) 101 with realignment to the west of the existing bridges. The proposed replacement is meant to address bridge scour, seismic requirements, and current bridge design standards. Modifications to the southbound Central Avenue on-ramp, the northbound off-ramp, and the Route 200/North Bank Road intersection will also be necessary.

The proposed project has the potential to result in the incidental take of coho salmon, which is State- and Federal-listed as threatened in the Southern Oregon-Northern California Coast (SONCC) Evolutionary Significant Unit (ESU). Take of juvenile coho salmon may occur during diversion/dewatering activities necessary for construction of new bridge piers, removal of old piers and footings, and placement of the scour pool structure. Project activities also have the potential to contribute sediment and petroleum-based products into the river which may have deleterious effects on coho salmon.

Relocation of bridge piers will result in the temporary alteration in pool-riffle habitat and loss of a scour pool used by salmonids as a holding area prior to spawning migration. The proposed project will also result in the removal of approximately 0.34 acres of riparian forest, 0.16 acres of other coastal wetland, and 0.05 acres of emergent wetland (United States Army Corps of Engineers jurisdictional wetland).

On February 2, 2005, the National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries) issued a "no jeopardy" biological opinion (BO) and Incidental Take Statement (ITS)(151422SWR02AR9371:DF) to the Federal Highway Administration for the above-referenced Caltrans project. The NOAA Fisheries BO described the project actions and set forth measures for take avoidance and mitigation for State- and Federal-listed coho salmon (*Oncorhynchus kisutch*) of the SONCC ESU as well as for other Federal-listed salmonids. The BO also described mitigation for temporary adverse impacts to holding and rearing habitat in the area of the bridge.

On May 11, 2005 the Federal Highway Administration received a letter from NOAA Fisheries that amended the BO (151422SWR2002AR8371:DF) to reflect a revised work window for activities below ordinary high water and above the wetted channel. The revised work window is May 1 through October 15 for each year of project construction. The amended BO added conditions to reduce the potential for sediment delivery to the river. On May 13, 2005, the Director of the Department of Fish and Game received a notice from the Caltrans District 1 Office in Eureka, pursuant to Section 2080.1 of the Fish and Game Code, requesting a determination that the NOAA Fisheries ITS and BO are consistent with the California Endangered Species Act (CESA).

**DETERMINATION**

The Department has determined that the NOAA Fisheries ITS and BO (151422SWR02AR9371:DF) and amended BO (151422SWR2002AR8371:DF) are consistent with CESA because the project and mitigation measures described meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of listed species. Specifically, the Department finds that the take of coho salmon will be incidental to an otherwise lawful activity (replacement of an existing highway bridge); the mitigation measures identified in the ITS and amended BO will minimize and fully mitigate the impacts of the authorized take of coho salmon; and the project will not jeopardize the continued existence of the species. The mitigation measures contained within the ITS and amended BO include but are not limited to the following:

1. The proposed scour feature (including LWD/boulder cluster elements) shall be constructed prior to September 15 of the first construction season to minimize impacts from construction-related disturbance.
2. Any salmonids impounded during dewatering for instream construction shall be removed by seining or electrofishing. If more than five coho salmon, five steelhead, or five Chinook salmon are killed during collection, the instream work shall immediately cease. Fish collected and removed shall be identified to species and reported to NOAA Fisheries.

The following conditions will be met during the revised work schedule of May 1 through October 15 for activities in the area below ordinary high water but above the wetted channel. (A) Work will occur only if the chance of precipitation is less than 30 percent. (B) Work that is stopped will only resume if precipitation ceases, the forecast of potential precipitation drops below 30 percent, and soils are not saturated as indicated by water pooling



and running off the site. (C) A ten-foot buffer will be maintained between the work and the wetted stream channel and erosion control materials will be stock-piled on site for immediate deployment, if necessary.

3. The footprint of the existing Highway 101 bridges shall be revegetated following bridge removal with a similar riparian species composition as that eliminated by the project. Survival of replanted vegetation shall be monitored for a period of three years and lost vegetation replaced.
4. Adult salmonid use of the existing and newly created scour pool habitat shall be monitored daily from September 15 until the first measurable rainfall to assess the displacement of adult salmonids from the holding areas that occurs during nearby construction activity. Results from behavioral monitoring shall be reported to NOAA Fisheries.

Pursuant to Section 2080.1 of the Fish and Game Code, incidental take authorization under CESA will not be required for incidental take of coho salmon during the project as it is described in the amended BO, provided Caltrans complies with the mitigation measures and other conditions described in the amended BO and ITS. If there are any substantive changes to the project including changes to the mitigation measures or if NOAA Fisheries further amends the BO, Caltrans will be required to obtain a new consistency determination or CESA incidental take authorization from the Department.

## DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION  
Fish and Game Code Section 2080.1  
Tracking Number 2080-2005-015-01

PROJECT: Ma-le'l Dunes Restoration  
LOCATION: Humboldt County, California  
NOTIFIER: EDAW, Inc. on behalf of the California Department of Corrections

### BACKGROUND

The proposed Ma-le'l Dunes restoration project is one component of the mitigation requirements described in the Habitat Conservation Plan ("HCP") developed by the California Department of Corrections ("CDC") for its Statewide Electrified Fence Project. The HCP was developed in response to the electrocution of wildlife, primarily birds, resulting from the operation of electrified fences at CDC prisons. After several years of studying the wildlife mortality impact and consulting with the US Fish and Wildlife Service ("USFWS") and the California Department of Fish and Game ("DFG"), CDC

developed the mitigation program outlined in the HCP to minimize wildlife mortality and mitigate for unavoidable mortality. Although the HCP indicates that restoration and enhancement in the Humboldt Bay area would occur at two other parcels, neither site was found to be feasible. It was agreed during subsequent consultations with USFWS and DFG that the Ma-le'l Dunes site is an appropriate alternative location. Currently owned by the Center for Natural Lands Management, the 160-acre Ma-le'l Dunes parcel is scheduled to be transferred to the Humboldt Bay National Wildlife Refuge ("HBNWR") in 2005.

The proposed restoration project includes the following components within dune habitats occupied by state and federally listed plant species:

- Approximately 12.7 acres of European beachgrass will be removed manually from the foredune ridges and transitional swales using repeated digs of both above ground stems and rhizomes to a depth of approximately 10 to 12 inches.
- Approximately 10 acres of yellow bush lupine, jubata grass, associated nonnative species, and duff will be manually treated in the nearshore dunes and swales.
- Iceplant will be removed manually from approximately six acres of iceplant-infested dune mat using standard pulling methods.

Control of invasive vegetation will occur over a 5-year period, which includes repeated manual removal of new seedlings or resprouts. CDC will provide inmates for manual labor for these activities, supervised by the California Department of Forestry and California Conservation Corps.

On May 9, 2005, the Arcata Fish and Wildlife Office of USFWS issued a "no jeopardy" biological opinion number 1-14-2005-2612 ("BO") for the restoration project. The BO describes project actions and sets forth measures to avoid take and mitigate impacts to State and Federally listed beach layia (*Layia carnosa*) and Humboldt Bay wallflower (*Erysimum menziesii* ssp. *eurekaense*).

On May 17, 2005, the Director of DFG received a notice from EDAW, Inc. on behalf of CDC, requesting a determination pursuant to Section 2080.1 of the Fish and Game Code that the federally-issued BO is consistent with the California Endangered Species Act ("CESA"). Because this restoration project was not included in the HCP, CDC is seeking this consistency determination so that any take of listed plants that may occur complies with California law.

### DETERMINATION

DFG has determined that BO (1-14-2005-2612) is inconsistent with CESA because the project and mitigation measures described meet the conditions set



forth in Fish and Game Code section 2081, subdivisions (b) and (c) for authorization of incidental take of listed species. Specifically, DFG finds that take of beach layia and Humboldt Bay wallflower will be incidental to an otherwise lawful activity (implementation of an approved HCP); the mitigation measures identified in the BO will minimize and fully mitigate the impacts of the authorized take of beach layia and Humboldt Bay wallflower; and the project will not jeopardize the continued existence of the two species. The mitigation measures contained within the BO include but are not limited to the following:

1. The Restoration Manager will survey areas subject to disturbance during implementation of the restoration plan and flag any endangered plant populations encountered before beginning any restoration work.
2. The Restoration Manager will directly oversee any digging in areas occupied by endangered plants to avoid disturbing or removing endangered plant species.
3. Work crews will be trained to avoid endangered plants.
4. Piles of removed plants will be placed outside of all the flagged endangered plant areas.
5. Grass flaming and duff removal methods will not occur in areas occupied by endangered plants.
6. Removal of yellow bush lupine in endangered plant areas will take place following seed dispersal for beach layia (after June 30). However, if mature lupine pods are present in these areas, the Restoration Manager will carefully remove them before dispersal.
7. The Restoration Manager will document any adversely affected wallflower individual(s).
8. The Restoration Manager will remove any jubata grass found in endangered plant areas after the beach layia seed set.
9. Routes to the removal areas will be established to avoid endangered plant areas and will be clearly marked.

The BO concludes that despite the potential short-term adverse effects that could occur during implementation of restoration activities, there will be an overall long-term benefit to beach layia and Humboldt Bay wallflower through the creation of new suitable habitat for both species.

Pursuant to Section 2080.1 of the Fish and Game Code, no incidental take authorization under CESA will be required for incidental take of beach layia and Humboldt Bay wallflower during the project as it is described in the biological opinion, provided CDC complies with the mitigation measures and other conditions described in the biological opinion and

incidental take statement. If there are any substantive changes to the project including changes to the mitigation measures or if USFWS amends or replaces the biological opinion, CDC will be required to obtain a new consistency determination or CESA incidental take authorization from DFG.

## DEPARTMENT OF HEALTH SERVICES

### NOTICE OF GENERAL PUBLIC INTEREST REGARDING THE DEPARTMENT OF HEALTH SERVICES' INTENT TO CHANGE THE DISPROPORTIONATE SHARE HOSPITAL PROGRAM REGARDING HOSPITAL ELIGIBILITY AND THE PRIMARY DATA SOURCE OF HOSPITAL COSTS USED IN PAYMENT CALCULATIONS

This notice is to provide information of public interest regarding the State's intent to change hospital eligibility for the Disproportionate Share Hospital (DSH) program and the primary data source used to determine hospital-specific payment amounts. To accomplish this change, it is the intent of the Department of Health Services (DHS) to submit to the federal Centers for Medicare & Medicaid Services (CMS), a State Plan Amendment (SPA) under Title XIX of the Social Security Act. The transition from the current program methodology to the new methodology is to be effective for State Fiscal Year 2005-06.

### CHANGE IN THE DISPROPORTIONATE SHARE HOSPITAL PROGRAM

Increased pressure from CMS to eliminate the use of intergovernmental transfers that CMS deems inappropriate has caused a significant change in hospital finance methodology. In the new hospital finance methodology private hospitals receive equivalent DSH funding through a Section 1115 waiver. Thus, the State must limit participation in the Disproportionate Share Hospital (DSH) program to public hospitals. All University of California medical centers will be added to the DSH Eligibility List published annually regardless of the hospital-specific DSH eligibility statistics. Only public hospitals eligible to draw funds from a newly created Safety Net Care Pool may receive DSH funding for costs above 100 percent. In addition the primary data source used to identify hospital patient expenses will change from the Office of Statewide Health Planning and Development Annual Financial Disclosure Report to the CMS Hospital and Hospital Health Care Complex Cost Report (Form CMS-2552-96).

### PUBLIC REVIEW

The draft SPA detailing the proposed changes in hospital eligibility and data sources stated above will

be available for review at local county welfare offices throughout the State. Interested persons may request copies, and may send written comments to Larry Brown, Chief, Disproportionate Share Hospital Unit, Medi-Cal Policy Division, Department of Health Services, 1501 Capitol Avenue, MS 4612, P.O. Box 997417, Sacramento, CA 95899-7417, or via e-mail at lbrown3@dhs.ca.gov.

## TITLE 14. FISH AND GAME COMMISSION

### Notice of Proposed Changes in Regulations

(Continuation of California Notice Register 2005, No. 20-Z, and Meeting of May 5, 2005.)

(NOTE: See Updated Informative Digest changes shown in **bold face type**.)

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861(c), 6750 and 10502.6 of the Fish and Game Code, and Sections 36725(a) and 36725(e) of the Public Resources Code and to implement, interpret or make specific Sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 5521, 6653, 8420(e) and 8500 of the Fish and Game Code, and Sections 36725(a) and 36725(e) of the Public Resources Code, proposes to amend Sections 632, Title 14, California Code of Regulations, relating to Marine Protected Areas.

### UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

State law (**Section 1590, Fish and Game Code**) authorizes the Commission to designate, delete, or modify state marine managed areas (MMAs). Authorization is also provided in subsection 36725(a), Public Resources Code. In addition, in subsection 36725(e), Public Resources Code, the Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

The existing regulation of Section 632, Title 14, California Code of Regulations (CCR), defines State Marine Parks and State Marine Conservation Areas and provides information on authorized uses within those areas. The classification of those areas is in accordance with the Marine Managed Areas Improvement Act (MMAIA) commencing with Section 36600, Public Resources Code.

Nine areas originally designated by the Legislature as marine life refuges were reclassified in 2004 as State Marine Parks under the authority of the MMAIA. **Six of these areas were historically productive for the commercial spiny lobster fishery and lobster take has been allowed in these areas**

**notwithstanding their establishment as marine life refuges. The fishery does not otherwise compromise the resource values of these areas.** The six areas are: Robert E. Badham State Marine Park, Irvine Coast State Marine Park, Laguna Beach State Marine Park, South Laguna Beach State Marine Park, Niguel State Marine Park, and Doheny State Marine Park. With the designation of these six areas as State Marine Parks, there is now a discrepancy between what has been a long-standing use in those areas and the type of use provided for under the state marine park designation as defined in the MMAIA. **The proposed regulation change would re-designate the status of these six areas to State Marine Conservation Areas to allow access for the commercial lobster industry.**

State law (sections 8254 and 8259, Fish and Game Code) authorizes the Commission to set conditions for the commercial lobster fishery. The proposed regulatory change will not change any conditions for that fishery or affect the status of the spiny lobster stocks.

In addition, Doheny State Marine Park's name is proposed to change to Doheny Beach State Marine Conservation Area to differentiate it from the existing Doheny State Marine Conservation Area.

**The special closure regulations for San Miguel and Anacapa Islands are currently listed in subsections 632(b)(43)(B) and 632(b)(51)(B), respectively. These regulations are proposed to be moved into separate subsections, 632(b)(43) and 632(b)(52), to be consistent with the marine protected area regulations for those islands. These proposed changes will clarify the regulations and help increase public understanding and compliance.**

**The landing permit reference in subsection 632(b)(43)(B) will be removed as it is no longer required by the National Park Service. The sea urchin permit reference in subsection 632(b)(43)(B)1.b. will be removed as sea urchin permits are not site specific. Also the coordinates for Judith and Castle Rocks are proposed to be added and all of the subsections after 632(b)(43) will be renumbered.**

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 1050 Monterey Street, 2nd floor, San Luis Obispo, California on Friday, August 19, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 12, 2005 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 16, 2005. Oral and written

comments will be accepted at the Commission's August 19, 2005, at the hearing in **San Luis Obispo, CA**. All comments must be received no later than August 19, 2005, at the hearing in **San Luis Obispo, CA**. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert Treanor or Sherrie Koell at the preceding address or phone number. **Mr. John Ugoretz, Nearshore Ecosystem Coordinator, Department of Fish and Game, phone (831) 649-2893, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following

initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed action serves to clarify and sanction historical commercial and recreational areas and practices to abate economic impacts and financial hardship to individuals and businesses.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.



## DECISION NOT TO PROCEED

### BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

#### NOTICE OF DECISION NOT TO PROCEED WITH RULEMAKING ACTION

The Board for Professional Engineers and Land Surveyors has decided not to proceed with its rulemaking action described in the Notice published in the California Regulatory Notice Register on December 3, 2004, OAL File # Z-04-1119-01, concerning Title 16, section(s) 443, Inspection of Examination. The Board for Professional Engineers and Land Surveyors intends to re-notice this Regulation Proposal with fee language added for the appeal of the Structural Engineering II Examination.

## RULEMAKING PETITION DECISIONS

### BOARD OF EQUALIZATION

#### NOTICE OF DECISION AS REQUIRED BY GOVERNMENT CODE SECTION 11340.7

On December 6, 2005, the California State Board of Equalization received a petition from Board Vice Chairman Claude Parrish to amend provisions of the Board's Rules of Practice, California Code of Regulations, Title 18, section 5010 et seq.

Board Member Parrish requested that the Board amend the Rules of Practice to:

1. Grant Additional Time for Complex or Otherwise Significant Cases
2. Specify the Order of Hearings on the Board's Agenda
3. Encourage the Publication of More Decisions

The Board's authority to adopt regulations for its own government and for the transaction of its business is found in subdivision (a) of Government Code section 15606.

With the consent of Board Member Parrish, the Board first heard this matter on March 22, 2005, and referred consideration to the Board's Customer Services and Administrative Efficiency Committee.

On May 2, 2005, the Board mailed and posted on the Internet a letter containing staff recommendations with regard to the petition and seeking public comment from interested parties.

The Board held a Customer Services and Administrative Efficiency Committee meeting on May 24,

2005. At the meeting, the Board decided to adopt the following recommendations:

- With the approval of the Chair, the Chief of Board Proceedings may grant requests for additional time, generally not more than an additional 10 minutes per party, to present complex cases. Staff will inform parties that they may request additional time.
- The Board Proceedings Division will schedule matters on the agenda for either a morning or afternoon session, generally scheduling oral hearings during the morning session and public hearings and administrative matters during the afternoon session.
- For Business Taxes and Franchise Tax Board appeals, the Appeals Division will provide a brief analysis regarding whether the Board's decision should be published.

The Board also decided to consider actual amendments as part of a comprehensive review of the Rules of Practice. A copy of the minutes reflecting the reasons for the Board's decision is attached.

A copy of the petition is available at <http://www.boe.ca.gov>. A hardcopy of the petition may be requested by contacting Ms. Joann Richmond, P.O. Box 942879, 450 N Street, MIC: 80, Sacramento, CA 94279-0080; Telephone (916) 322-1931; Fax (916) 324-3984;

E-mail [Joann.Richmond@boe.ca.gov](mailto:Joann.Richmond@boe.ca.gov).

Questions regarding this matter should be directed to Senior Tax Counsel Ani Kindall, Telephone (916) 324-2195, Fax (916) 323-3387, or E-mail [Ani.Kindall@boe.ca.gov](mailto:Ani.Kindall@boe.ca.gov).

## DEPARTMENT OF DEVELOPMENTAL SERVICES

### DECISION ON PETITION TO AMEND REGULATIONS

The Department of Developmental Services (DDS) submits the following Decision in response to a Petition to Amend Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 3, Article 1 by amending Section 54524.

#### PETITIONERS

Karen Kinnebrew, President  
Harbor Regional Center

REGULATIONS SECTION AFFECTED  
Title 17, Section 54524

#### AUTHORITY

Authority: Section 11152, Government Code, Sections 4628 and 4627 Welfare and Institutions Code.



## DECISION

DDS disagrees that Title 17 Section 54524 should be amended to give the Director the final authority to determine whether or not a waiver should be granted to a Regional Center Governing Board Member when a conflict exists.

## REASONS FOR DEPARTMENT'S DETERMINATION

Pursuant to 4628 of Welfare and Institutions Code, the Director may grant a waiver for a conflict of interest for a Governing Board Member with the approval of the Local Area Board and with the approval of the State Council on Developmental Disabilities. Therefore, Title 17 section 54524 cannot be amended to allow DDS to make the final determination on whether or not to grant a waiver regardless of what the Local Area Board and the State Council have decided. DDS is bound by 4628 of the Welfare and Institutions Code.

## CONTACT PERSON

Comments and inquiries concerning the Decision may be directed to:

Attention: Cynthia M. Bosco, Staff Counsel  
Department of Developmental Services  
Office of Legal Affairs  
1600 Ninth Street, Room 240, MS 2-14  
Sacramento, California 95814  
email: Cynthia.Bosco@dds.ca.gov  
Phone: (916) 653-0123  
FAX: (916) 654-1716

If Ms. Bosco is unavailable, comments and inquiries concerning the Decision may be directed to:

Attention: Ali Mansfield  
Acting Chief Counsel  
Department of Developmental Services  
Office of Legal Affairs  
1600 Ninth Street, Room 240, MS 2-14  
Sacramento, California 95814  
email: ali.mansfield@dds.ca.gov  
Phone: (916) 654-3405  
FAX: (916) 654-1716

## AVAILABILITY OF PETITIONS

Copies of the Petitions to amend the regulations, along with all other public records, reports, documentation or other material related to the Decision will be contained in the Petition file and will be available for inspection and copying from the contact person at the above address. In addition, the Decision and other materials for this petition may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov).

## DEPARTMENT OF HEALTH SERVICES

April 14, 2005

Patricia Dadone, President  
California Association of Public Health  
Laboratory Directors  
2220 Moorpark Avenue, 2nd Floor  
San Jose, CA 95128

Re: Request to amend Title 42 Code of Federal Regulations, Section 493.1443

Dear Ms. Dadone:

Thank you for your letter of February 24, 2005, in which you petition the Department of Health Services (Department) to adopt a regulation that modifies the clinical laboratory director requirements specified in Title 42 Code of Federal Regulations, section 493.1443. Such petition is made pursuant to Government Code section 11340.7 and Business and Professions Code section 1208. I am responding to your petition.

The Department has given consideration to your petition in accordance with Government Code section 11340.7 and has determined that it must deny your request. The basis for denial is the Department lacks authority to adopt a regulation concerning clinical laboratory directors that is less stringent than federal law.

Specifically, you have requested that the Department adopt a regulation that would modify title 42 Code of Federal Regulations, section 493.1443, for state purposes only, to allow a local Public Health Laboratory Director to direct a clinical laboratory if he or she meets the state requirements, regardless of the director requirements currently specified in the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

Pursuant to Business and Professions Code section 1208(b), the Department is required to evaluate any CLIA regulation adopted by the Centers for Medicare & Medicaid Services of the U.S. Department of Health & Human Services (CMS formerly HCFA). This section provides:

“ . . . Any new federal regulation that is deemed by the department to be equivalent to or more stringent than California laws or regulations, shall become effective by operation of law as a regulation adopted under this chapter, 90 days after adoption by HCFA and the department publishes the notice required by subdivision (c), or on January 1, 1996, whichever is later. After publishing the notice required by subdivision (c), any new federal

regulation deemed by the department to be less stringent than current California law or regulation shall be noticed by the department as a comparable state regulation for a rulemaking proceeding in accordance with Chapter 3.5 . . . which shall result in the adoption, amendment, or rejection of that noticed state regulation.”

Under your proposal, title 42 Code of Federal Regulations, section 493.1443 would be adopted pursuant to Business and Professions Code section 1208 with the addition of a subsection (b)(7) as follows:

“The laboratory director must be qualified to manage and direct the laboratory personnel and performance of high complexity tests and must be eligible to be an operator of a laboratory within the requirements of subpart R.

(a) The laboratory director must possess a current license as a laboratory director issued by the State in which the laboratory is located, if such licensing is required; and

(b) The laboratory director must—

(1)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in anatomic or clinical pathology, or both, by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) Be a doctor of medicine, a doctor of osteopathy or doctor of podiatric medicine licensed to practice medicine, osteopathy or podiatry in the State in which the laboratory is located; and

(i) Have at least one year of laboratory training during medical residency (for example, physicians certified either in hematology or hematology and medical oncology by the American Board of Internal Medicine); or

(ii) Have at least 2 years of experience directing or supervising high complexity testing; or

(3) Hold an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution and—

(i) Be certified and continue to be certified by a board approved by HHS; or

(ii) Before February 24, 2003, must have served or be serving as a director of a laboratory performing high complexity testing and must have at least—

(A) Two years of laboratory training or experience, or both; and

(B) Two years of laboratory experience directing or supervising high complexity testing.

(C) On December 31, 2002, individuals must meet the qualifications specified in paragraph (b)(3)(i) of this section;

(4) Be serving as a laboratory director and must have previously qualified or could have qualified as a laboratory director under regulations at 42 CFR493.1415, published March 14, 1990 at 55 FR 9538, on or before February 28, 1992; or

(5) On or before February 28, 1992, be qualified under State law to direct a laboratory in the State in which the laboratory is located; or

(6) For the subspecialty of oral pathology, be certified by the American; or

(7) For local Public Health Laboratories, be qualified under State law to direct a laboratory in the State in which the laboratory is located.”

The addition of subsection (b)(7) is contrary to CMS’ Interpretive Guidelines for section 493.1443. In those guidelines, CMS has stated that:

“Those individuals qualified after February 28, 1992 as directors solely under State law, will not meet this requirement.”

Thus, the standard you propose is less stringent than the federal regulation and adopting it as a regulation would be contrary to Business and Professions Code section 1208(b). The Department does not have the authority to adopt a regulation to allow a person to qualify as a public health laboratory director if that person does not meet the federal requirements.

You should be aware that pursuant to Government Code section 11340.7(c), you, or any other interested person may request reconsideration of any part or all of the Department’s decision regarding this Petition no later than 60 days after the date of this letter.

A copy of this letter will be sent to the Office of Administrative Law for publication in the California Regulatory Notice Register, pursuant to Government Code section 11340.7(d).

If you, or any other interested person, would like a copy of the petition or wish to discuss this matter further, please contact Cindy Lloyd at (916) 440-7780.

Very truly yours,

Robert D. Tousignant  
Deputy Director & Chief Counsel  
Office of Legal Services

## PROPOSITION 65

### CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(Proposition 65)

#### NOTICE TO INTERESTED PARTIES

#### AVAILABILITY OF ADDITIONAL INFORMATION RELATED TO THE PROPOSITION 65 LISTING DECISION FOR CHLOROFORM WITH REGARD TO REPRODUCTIVE TOXICITY

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65, codified at Health and Safety Code § 25249.5 et seq.). The Developmental and Reproductive Toxicant (DART) Identification Committee of OEHHA's Science Advisory Board advises and assists OEHHA in compiling the list of chemicals known to the State to cause reproductive toxicity. The Committee serves as the State's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity. (See Health and Safety Code § 25249.8 and Title 22, Cal. Code of Regs., section 12302-12305.)

In a notice entitled "Availability of Hazard Identification Materials for Perchlorate and Announcement of the Developmental and Reproductive Toxicant Identification Committee Meeting" published on May 20, 2005, it was noted that at the last DART Identification Committee on November 4, 2004, the Committee considered whether chloroform had been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity and voted not to list chloroform under Proposition 65. However, the Committee asked

OEHHA to present additional information related to their decision at the next meeting of the Committee. At the meeting, OEHHA agreed to make available to the public, the additional information requested by the Committee, and is doing so at this time.

The additional information being provided by OEHHA to the Committee for their consideration consists of the following:

1. A description of a reanalysis requested by OEHHA and conducted by the authors of data from two epidemiological studies related to chloroform, as requested by the Committee (Infante-Rivard, C (2004). Drinking water contaminants, gene polymorphisms, and fetal growth. *Environ Health Perspect.* 112(11):1213-6 and Wennborg H, Bodin L, Vainio H, Axelsson G. (2000). Pregnancy outcome of personnel in Swedish biomedical research laboratories. *J Occup Environ Med.* 42(4):438-46).
2. A copy of an experimental study of the potential developmental toxicity of chloroform in rats published after the last meeting of the Committee (Lim GE, Stals SI, Petrik JJ, Foster WG, Holloway AC (2004). The effects of *in utero* and lactational exposure to chloroform on postnatal growth and glucose tolerance in male Wistar rats. *Endocrine.* 25(3):223-8.).

Copies of these documents are available from the Proposition 65 Implementation Office and may be requested by calling (916) 445-6900. The documents are also available through the Internet at the following address: <http://www.oehha.ca.gov/>.

This notice marks the beginning of a 4-week public comment period on these documents. Comments should be submitted in triplicate and directed to:

Ms. Cynthia Oshita  
Office of Environmental Health  
Hazard Assessment  
Street Address: 1001 I Street  
Sacramento, California 95814  
Mailing Address: P.O. Box 4010  
Sacramento, California 95812-4010  
Fax No.: (916) 323-8803  
Telephone: (916) 445-6900

**Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov). In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on Friday, July 29, 2005.**

OEHHA will organize and index the comments received and forward the information to the DART Identification Committee members prior to the meeting on August 11, 2005 at which the candidate chemical may be reconsidered.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### AIR RESOURCES BOARD Consumer Products

This action is the ARB's most recent amendments to the complex regulatory scheme limiting Volatile Organic Compounds (VOC) in various types of consumer products. This action adopts VOC limits for 15 categories of products, prohibits the use of MeCl, Perc, and TCE in seven product categories, and establishes an ATCM for para-dichlorobenzene in solid air fresheners and toilet/urinal care products.

Title 17  
California Code of Regulations  
AMEND: 94501, 94506, 94507, 94508, 94509, 94510, 94512, 94513, 94515, 94526, & Test Method  
Filed 06/20/05  
Effective 07/20/05  
Agency Contact:  
David Aron Livingston (916) 322-2884

#### BOARD OF EDUCATION Statewide Charter Schools

In this regulatory action, the State Board of Education amends and adds regulations pertaining to charter schools in California, with particular emphasis on "statewide charter schools" under Education Code section 47605.8.

Title 5  
California Code of Regulations  
ADOPT: 11967.6, 11967.7, 11967.8 AMEND:  
11967, 11968, 11969  
Filed 06/22/05  
Effective 06/22/05  
Agency Contact: Debra Strain (916) 319-0641

#### BOARD OF FORESTRY AND FIRE PROTECTION

Lake Tahoe Region Exemption Emergency Rule,  
2005

This emergency regulatory action amends Title 14, Section 1038 and related sections to exempt Timber Harvesting Plan filing requirements of the Forest Practice Act when harvesting live trees in a water-course and lake protection zone (WLPZ) or a Stream Environment Zone (SEZ) in the Lake Tahoe region for the purpose of reducing fire hazards. It also specifies the low impact tree removal methods that must be used.

Title 14  
California Code of Regulations  
AMEND: 895, 895.1, 1038, 1038(f)  
Filed 06/21/05  
Effective 06/21/05  
Agency Contact:  
Christopher Zimny (916) 653-9418

#### BOARD OF PRISON TERMS Attempted Murder

This regulatory action implements the court order of In re Thomas Sims by amending the guidelines for prisoners convicted of attempted murder. It clarifies incomplete and confusing references to certain attempted murders, adds two crimes of attempted murder to the list of life crimes, and establishes three separate attempted murder matrices of suggested base terms: attempted willful, deliberate and premeditated murder; attempted murder of a police officer or fire fighter; and attempted willful, deliberate and premeditated murder of a police officer of fire fighter.

Title 15  
California Code of Regulations  
AMEND: 2000, 2400, 2403  
Filed 06/22/05  
Effective 06/22/05  
Agency Contact: Kelly Winsor (916) 324-9898

#### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING Add Exemption to Expanded Course Outline Requirements

This regulatory action establishes an exemption to the expanded course outline requirements.

Title 11  
California Code of Regulations  
AMEND: 1053  
Filed 06/15/05  
Effective 07/01/05  
Agency Contact:  
Patricia Cassidy (916) 227-4847



COMMISSION ON PEACE OFFICER  
STANDARDS AND TRAINING

Training and Testing Specifications for Peace Officer  
Basic Courses

This action updates the training and testing specifications for the Peace Officer Basic Course.

Title 11

California Code of Regulations

AMEND: 1005, 1007, 1008

Filed 06/15/05

Effective 07/01/05

Agency Contact:

Patricia Cassidy (916) 227-4847

DENTAL BOARD OF CALIFORNIA

Examination Requirements

This regulatory action updates the procedures to be tested in the Restorative Technique exam.

Title 16

California Code of Regulations

AMEND: 1041

Filed 06/22/05

Effective 07/22/05

Agency Contact:

Richard DeCuir (916) 263-2300

DEPARTMENT OF CORPORATIONS

Mandated Electronic Filing Under 25102(f)

This action provides that the filing of the notice required under Corporations Code section 25102, subdivision (f), must be made electronically; provides for a hardship exemption from the electronic filing requirement; and updates the notice form and instructions with minor coordinating changes.

Title 10

California Code of Regulations

AMEND: 260.102.14

Filed 06/22/05

Effective 07/22/05

Agency Contact: Kathy Womack (916) 322-3553

DEPARTMENT OF CORRECTIONS

Segregated Housing

Increases time period for required review of inmates assigned to administrative segregation.

Title 15

California Code of Regulations

AMEND: 3335

Filed 06/15/05

Effective 06/15/05

Agency Contact: John McClure (916) 358-1655

DEPARTMENT OF CORRECTIONS

Repeal the Disability Placement Program Pilot Program

The Department of Corrections is repealing the Disability Placement Program Pilot Program found at title 15, section 3999.1.2, California Code of Regula-

tions. The aforementioned pilot program was operative 12-12-96, and submitted pursuant to Penal Code section 5058(d). Penal Code section 5058(d) became Penal Code section 5058.1 (pilot programs), and Penal Code section 5058.2 (imminent danger) in 2001. The aforementioned pilot program is "repealed by operation of law, and the . . . repeal of . . . [the] regulation pursuant to this section is reversed by operation of law, two years after the commencement of the pilot program. . ." (Penal Code section 5058.1).

Title 15

California Code of Regulations

REPEAL: 3999.1.2

Filed 06/21/05

Effective 06/21/05

Agency Contact: Gail Long (916) 358-1655

DEPARTMENT OF CORRECTIONS

Repeal of the Pelican Transitional Housing Unit Pilot Program

The Department of Corrections is repealing its Pelican Bay Transitional Housing Unit Pilot Program found at title 15, section 3999.1.3, California Code of Regulations. The aforementioned pilot program was operative 12-5-96, and submitted pursuant to Penal Code section 5058(d). Penal Code section 5058(d) became Penal Code section 5058.1 (pilot programs), and Penal Code section 5058.2 (imminent danger) in 2001. The aforementioned pilot program is "repealed by operation of law, and the . . . repeal of . . . [the] regulation pursuant to this section is reversed by operation of law, two years after the commencement of the pilot program. . ." (Penal Code section 5058.1).

Title 15

California Code of Regulations

REPEAL: 3999.1.3

Filed 06/21/05

Effective 06/21/05

Agency Contact: Gail Long (916) 358-1655

DEPARTMENT OF FOOD AND AGRICULTURE

Karnal Bunt Disease Interior Quarantine

This filing is a certificate of compliance for an emergency regulatory action which removed the Karnal bunt disease interior quarantine from a portion of the Palo Verde Valley in Riverside County considered to be free from disease thereby eliminating restrictions in the intrastate movement of hosts and possible carriers

Title 3

California Code of Regulations

AMEND: 3430(b)

Filed 06/22/05

Effective 06/22/05

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HEALTH SERVICES

Radiation Control Fee Adjustments

This emergency regulatory action increases the fees for registration, licenses, permits, and evaluations imposed for the purposes of radiation control paid into the Radiation Control Fund and makes other related changes.

Title 17

California Code of Regulations

ADOPT: 30194.1, 30194.2 AMEND: 30100, 30145, 30145.1, 30225, 30230, 30231, 30408, 30535  
REPEAL: 30232

Filed 06/22/05

Effective 06/22/05

Agency Contact:

Cathy Ruebusch (916) 440-7841

DEPARTMENT OF MANAGED HEALTH CARE

Independent Medical Review; Medicare & Urgent Care or ER Service Language

This regulatory action states that a Medicare enrollee of a health care service plan may be eligible to request an independent medical review when the plan has denied therapy or medical service based on the plan's determination that the therapy or medical service is experimental or investigational to the extent it does not conflict with federal law. This action also amends the provision of when the plan must notify the enrollee of the ability to seek independent medical review.

Title 28

California Code of Regulations

AMEND: 1300.70.4

Filed 06/17/05

Effective 07/17/05

Agency Contact:

Elaine Paniewski (916) 324-9024

DEPARTMENT OF SOCIAL SERVICES

Community Care Facilities Licensing Fees

This action updates the regulations which identify the licensee fees and related charges payable by the various classes of community care facilities to conform with current statutory provisions that specify the amounts of these fees.

Title 22, MPP

California Code of Regulations

AMEND: 80027, 80036, 87224, 87228, 87834, 87836, 101178, 101187, 102384

Filed 06/15/05

Effective 06/15/05

Agency Contact: Alison Garcia (916) 657-2586

DEPARTMENT OF WATER RESOURCES

Yuba Feather River Flood Protection Program

This emergency action amends and adopts regulations of the Yuba Feather Flood Protection Program of

the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000, expanding the activities that may be funded through grants by adding plan implementation in addition to the currently authorized activities of studying feasibility and preparing designs.

Title 23

California Code of Regulations

ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2, 499.6.3  
AMEND: 499.1, 499.2, 499.3, 499.4, 499.4.1, 499.5, 499.6, 499.6.1, 499.7, 499.8 REPEAL: 499.6.2

Filed 06/20/05

Effective 06/20/05

Agency Contact:

Katherine A. Spanos (916) 653-6295

DIVISION OF WORKERS COMPENSATION

Workers' Compensation-medical Provider Networks

This is the second emergency re-adoption of new Article 3.5 implementing year 2004 legislation that authorizes an employer to contract with a medical provider network for the provision of medical treatment to injured employees, by defining terms, creating a process of applying for and receiving Division approval of such networks, and setting standards for care, review and appeal of decisions made in connection with the provision of such care. There are no changes in the regulations at this time.

Title 8

California Code of Regulations

ADOPT: 9767.1, 9767.2, 9767.3, 9767.4, 9767.5, 9767.6, 9767.7, 9767.8, 9767.9, 9767.10, 9767.11, 9767.12, 9767.13, 9767.14

Filed 06/20/05

Effective 06/29/05

Agency Contact:

Destie Overpeck (415) 703-4659

EDUCATION AUDIT APPEALS PANEL

Supplement to Audits of K-12 LEAs—FY 2004–05

This is the certification of compliance for an action that updates the audit guide for school year 2004–2005 to address legislative changes to the conditions of apportionment of school funds that occurred after the original adoption of the audit guide.

Title 5

California Code of Regulations

ADOPT: 19817.1, 19826.1, 19828.1, 19837  
AMEND: 19813, 19814, 19814.1, 19817, 19826, 19828

Filed 06/20/05

Effective 06/20/05

Agency Contact:

Carolyn Pirillo (916) 445-7745

**FAIR POLITICAL PRACTICES COMMISSION**  
**Personal Financial Effects**

This action further defines what would meet the "Materiality Standard" for the types of decision that would have financial effects for a public official.

Title 2  
 California Code of Regulations  
 AMEND: 18705.5  
 Filed 06/21/05  
 Effective 07/21/05  
 Agency Contact: Theis Finley (916) 322-5660

**OCCUPATIONAL SAFETY AND HEALTH**  
**STANDARDS BOARD**

**Fall Arrest Free Fall Distance**

This regulatory action is to change the free fall distance required for fall arrest systems when work is performed from thrust-outs or similar locations where temporary guardrail protection is impracticable. The change from a maximum of four feet to a maximum of six feet is consistent with federal standards and allows for greater mobility for those performing this work.

Title 8  
 California Code of Regulations  
 AMEND: 1670(b)(11)(B)  
 Filed 06/15/05  
 Effective 07/15/05  
 Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH**  
**STANDARDS BOARD**

**Low Profile Tractors**

This regulatory action amends Title 8, Sections 3649 to clarify that the definition of a "low profile tractor" is one that possesses all four existing design/functional characteristics; and Section 3651 to eliminate duplicative language in the existing regulation text in order to make it clearer and more understandable to an employer with regard to when a rollover protective structure (ROP) is not required on low profile tractors.

Title 8  
 California Code of Regulations  
 AMEND: 3649, 3651(a)  
 Filed 06/20/05  
 Effective 07/20/05  
 Agency Contact: Marley Hart (916) 274-5721

**STATE AND CONSUMER SERVICES AGENCY**  
**Conflict of Interest Code**

The State and Consumer Services Agency is amending its conflict of interest code found at Title 2, Div. 8, Ch. 4, Section 25001, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on May 5, 2005.

Title 2  
 California Code of Regulations  
 AMEND: Div. 8, Ch. 4, section 25001  
 Filed 06/16/05  
 Effective 07/16/05  
 Agency Contact: Vicki Ong (916) 653-4090

**CCR CHANGES FILED WITH THE**  
**SECRETARY OF STATE**  
**WITHIN JANUARY 26, 2005**  
**TO JUNE 22, 2005**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

06/21/05 AMEND: 18705.5  
 06/16/05 AMEND: Div. 8, Ch. 4, section 25001  
 06/14/05 ADOPT: 18750.2, 18755 AMEND: 18702.4  
 05/31/05 ADOPT: 1859.300, 1859.301, 1859.302, 1859.310, 1859.311, 1859.312, 1859.313, 1859.314, 1859.315, 1859.316, 1859.317, 1859.318, 1859.319, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.325, 1859.326, 1859.327, 1859.328, 185  
 05/27/05 AMEND: 1859.2  
 05/27/05 AMEND: 20107  
 05/26/05 AMEND: 1859.2, 1859.81, 1866  
 05/26/05 ADOPT: 18465.1  
 05/24/05 ADOPT: 1859.23 AMEND: 1859.2, 1859.122, 1859.123 1859.123.1  
 05/12/05 ADOPT: 1859.71.4, 1859.78.1 AMEND: 1859.2, 1859.73.2, 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.164.2  
 05/03/05 ADOPT: 20800.1, 20800.2, 20800.3, 20800.4, 20800.5 20800.6, 20800.7, 20800.8, 20800.9, 20801.1, 20801.2, 20801.3 AMEND: 20800, 20801, 20802  
 05/02/05 ADOPT: 18640 AMEND: 18941.1, 18946, 18946.1, 18946.2, 18946.4  
 04/26/05 AMEND: 1859.2, 1859.42  
 04/19/05 AMEND: 172.4, 172.5, 172.6, 172.7, 172.8, 172.9, 172.10  
 03/21/05 AMEND: 549.70, 549.71, 549.72, 549.74  
 03/02/05 AMEND: 1859.73.2, 1859.145.1  
 02/28/05 AMEND: 1859.2

02/28/05 AMEND: 1859.2  
 02/28/05 AMEND: 1859.71.3, 1859.78.5  
 02/24/05 AMEND: 211  
 02/23/05 ADOPT: 1859.90.1 AMEND: 1859.2  
 02/15/05 AMEND: 1859.81  
 02/03/05 AMEND: 1859.106  
 02/03/05 ADOPT: 1859.78.8 AMEND: 1859.2,  
 1859.60, 1859.61 1859.78.6  
 01/31/05 AMEND: 1859.2, 1589.33, 1859.35,  
 1859.77.3, 1859.82, 1859.83  
 01/26/05 ADOPT: 20107

### Title 3

06/22/05 AMEND: 3430(b)  
 06/09/05 ADOPT: 3700  
 06/03/05 ADOPT: 3963  
 05/23/05 AMEND: 3636(a)(c)  
 05/16/05 AMEND: 6388  
 05/09/05 ADOPT: 1392.2(t), 1392.4(h), 1392.4(i),  
 1392.4(j) 1392.9(c), 1392.9(d),  
 04/15/05 AMEND: 1446.9(c), 1454.16(c)  
 04/04/05 AMEND: 6400  
 03/07/05 ADOPT: 1392.8.1(3) AMEND:  
 1392.8.1(2)  
 03/01/05 ADOPT: 796, 796.1, 796.2, 796.3, 796.4,  
 796.5, 796.6 796.7, 796.8, 796.9  
 AMEND: Article 8 heading REPEAL:  
 795.10, 795.13, 795.14, 795.16, 795.17,  
 795.19, 795.30, 795.32, 795.33, 795.50  
 02/28/05 AMEND: 3430(b)  
 02/24/05 AMEND: 1280.2  
 02/23/05 AMEND: 3423(b)  
 02/15/05 ADOPT: 4603(g)  
 02/02/05 AMEND: 3430(b)

### Title 4

05/26/05 ADOPT: 7030, 7031, 7032, 7033, 7034,  
 7035, 7036, 7037, 7038, 7039, 7040,  
 7041, 7042, 7043, 7044, 7045, 7046,  
 7047, 7048, 7049, 7050  
 04/27/05 AMEND: 1844, 1845  
 04/04/05 ADOPT: 10300, 10302, 10305, 10310,  
 10315, 10317, 10320, 10322, 10325,  
 10326, 10327, 10328, 10330, 10335,  
 10337  
 03/22/05 AMEND: 12250, 12270, 12271, 12272  
 02/28/05 AMEND: 2424  
 02/11/05 ADOPT: 7030, 7031, 7032, 7033, 7034,  
 7035, 7036 7037, 7038, 7039, 7040,  
 7041, 7042, 7043, 7044, 7045, 7046,  
 7047, 7048, 7049, 7050  
 02/04/05 AMEND: 1371  
 01/28/05 ADOPT: 12270, 12271, 12272

### Title 5

06/22/05 ADOPT: 11967.6, 11967.7, 11967.8  
 AMEND: 11967, 11968, 11969

06/20/05 ADOPT: 19817.1, 19826.1, 19828.1,  
 19837 AMEND: 19813, 19814, 19814.1,  
 19817, 19826, 19828  
 06/09/05 ADOPT: 11511.6, 11516.6, 11516.7,  
 11517.5 AMEND: 11510, 11511,  
 11515.5, 11512, 11512.5, 11513, 11513.5,  
 11514, 11516, 11516.5, 11517  
 06/08/05 ADOPT: 17101 AMEND: 9531  
 05/26/05 AMEND: 30060  
 05/26/05 AMEND: 80413  
 05/06/05 ADOPT: 3075.1, 13075.2, 13075.3,  
 13075.4 AMEND: 13075  
 05/06/05 ADOPT: 19850, 19851, 19852, 19853,  
 19854 AMEND: 19813, 19814, 19814.1  
 05/06/05 ADOPT: 18092.5 AMEND: 18066,  
 18069, 18078, 18081, 18083, 18084,  
 18092, 18103, 18106, 18109, 18110  
 05/06/05 ADOPT: 18220.2, 18224.2, 18224.4,  
 1840.5, 18249 AMEND: 18220, 18240,  
 18248  
 05/05/05 ADOPT: 80021, 80021.1  
 04/14/05 AMEND: 19836  
 03/24/05 ADOPT: 80307 AMEND: 80300, 80303,  
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 03/21/05 AMEND: 19828.1  
 03/02/05 AMEND: 55607, 59509 REPEAL: 55310  
 02/10/05 ADOPT: 19817.1, 19826.1, 19828.1,  
 19837 AMEND: 19814, 19814.1, 19817,  
 19826, 19828  
 02/09/05 REPEAL: 9540, 9541, 9542, 9543, 9544,  
 9545, 9546, 9547, 9548, 9549, 9550  
 01/31/05 AMEND: 80048.3, 80457, 80523.1 RE-  
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06/20/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
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 9767.10, 9767.11, 9767.12, 9767.13,  
 9767.14  
 06/20/05 AMEND: 3649, 3651(a)  
 06/15/05 AMEND: 1670(b)(11)(B)  
 06/10/05 ADOPT: 9768.1, 9768.2, 9768.3, 9768.4,  
 9768.5, 9768.6, 9768.7, 9768.8, 9768.9,  
 9768.10, 9768.11, 9768.12, 9768.13,  
 9768.14, 9768.15, 9768.16 9768.17  
 06/10/05 ADOPT: 9785.4, 9805.1 AMEND: 9725,  
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 10150, 10152, 10156, 10158, 10160,  
 10161, 10163, 10165.5 REPEAL: 10151,  
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 06/06/05 ADOPT: 10133.50, 10133.51, 10133.52,  
 10133.53, 10133.54, 10133.55, 10133.56,  
 10133.57, 10133.58 10133.59, 10133.60  
 05/31/05 ADOPT: 32032, 32033, 32034, 32035,  
 32606, 32607, 32608, 32609, 81000,  
 81005, 81010, 81020, 81030, 81040,  
 81050, 81055, 81060, 81065, 81070,



81075, 81080, 81090, 81100, 81105,  
81110, 81115, 81120, 81125, 81130,  
81135, 81140, 81145, 81150, 81155,  
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05/24/05 AMEND: 3999

05/12/05 AMEND: 9789.11

04/29/05 AMEND: 3456

04/28/05 AMEND: 1637

04/19/05 REPEAL: 16003

04/14/05 AMEND: 8354, 8397.10, 8397.11,  
8397.12, 8397.13.

04/06/05 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,  
9792.10, 9792.11 REPEAL: 9792.6

04/06/05 AMEND: 230.2

03/16/05 AMEND: 344.30

03/08/05 AMEND: 15220, 15220.1, 15220.3,  
15220.4

03/07/05 AMEND: 5144

02/28/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,  
9767.10, 9767.11, 9767.12, 9767.13,  
9767.14

02/04/05 AMEND: 5146

01/26/05 AMEND: 3456

01/26/05 AMEND: 5144

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03/25/05 ADOPT: 13000, 13005, 13010, 13015,  
13020, 13025, 13030, 13035, 13040,  
13045, 13050, 13055, 13060, 13065,  
13070, 13075 AMEND: 9846, 10125,  
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06/22/05 AMEND: 260.102.14

06/03/05 AMEND: 2698.61, 2698.62

06/03/05 AMEND: 2698.70, 2698.71

05/05/05 ADOPT: 2805, 2805.5, 2805.9, 2805.11,  
2806, 2807, 2807.1, 2807.2, 2807.3,  
2807.4, 2808, 2809, 2809.1, 2809.2,  
2809.3, 2809.5, 2810, 2810.5, 2811  
AMEND: 2814 REPEAL: 2805, 2805.1,  
2805.1.5, 2806 2806.5, 2810, 2810.1,  
2810.2, 2810.3, 2810.4, 2810.6, 28

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2698.37, 2698.38, 2698.39, 2698.40,  
2698.41 REPEAL: 2698.40, 2698.41,  
2698.42, 2698.43, 2698.44, 2698.45

04/01/05 AMEND: 260.140.72, 260.140.72.1,  
260.140.72.5

04/01/05 ADOPT: 2218.60, 2218.61, 2218.62,  
2218.63

03/25/05 AMEND: 1556

03/17/05 ADOPT: 2712 AMEND: 2835, 2840,  
2840.1, 2851, 2930

03/02/05 AMEND: 2318.6, 2353.1, 2354

02/09/05 AMEND: 260.165

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06/15/05 AMEND: 1005, 1007, 1008

06/15/05 AMEND: 1053

06/13/05 ADOPT: 308, 312.1 AMEND: 300, 301,  
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05/11/05 ADOPT: 61.9

05/09/05 ADOPT: 28.4

05/04/05 AMEND: 51.7

05/04/05 ADOPT: 51.25

05/04/05 ADOPT: 51.23

05/04/05 ADOPT: 61.8

05/04/05 AMEND: 51.2

05/03/05 AMEND: 51.14

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05/03/05 AMEND: 51.12

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03/30/05 AMEND: 970, 970.1, 971., 972, 972.1,  
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973, 973.1, 974, 974.1, 975, 975.1, 975.2,  
975.3, 975.4, 975.5, 975.6, 976, 976.1,  
976.2, 976.3, 976.4 REPEAL: 975.1

03/30/05 ADOPT: 2037, 2038 AMEND: 2010,  
2037, 2038, 2050

03/15/05 ADOPT: 996

02/18/05 AMEND: 63.5

02/16/05 AMEND: 995.5

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06/14/05 AMEND: 503(f)

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05/31/05 AMEND: 551.1, 551.6, 555, 558, 560,  
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05/03/05 ADOPT: 159.10

03/30/05 AMEND: 25.15, 25.18, 25.19, 25.22

03/21/05 ADOPT: 2011 AMEND: 2180.1, 2181,  
2184, 2185, 2186, 2192, 2194

03/10/05 AMEND: 2260, 2262, 2262.4, 2262.5,  
2262.6, 2262.9, 2263, 2265, 2266.5

02/22/05 AMEND: 220.04, 220.12, 221.12

02/08/05 AMEND: 330.32

02/02/05 AMEND: 124.92, 124.93

01/31/05 AMEND: 1956.1, 1956.2, 1956.3, 1956.4

01/27/05 ADOPT: 2485

01/26/05 ADOPT: 15.07

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06/21/05 AMEND: 895, 895.1, 1038, 1038(f)

06/09/05 AMEND: 782

06/09/05 AMEND: 27.80

05/12/05 AMEND: 120.01

05/12/05 AMEND: 180.3

05/11/05 AMEND: 150.05

05/11/05 AMEND: 231

05/11/05 AMEND: 150.03

05/11/05 AMEND: 601  
 05/11/05 AMEND: 180.15  
 05/10/05 AMEND: 150.02  
 05/10/05 AMEND: 150  
 05/10/05 AMEND: 551  
 05/05/05 AMEND: 165  
 04/25/05 ADOPT: 18456.2.1, 18460.2.1 AMEND:  
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 04/25/05 ADOPT: 1038(i) AMEND: 1038(e)  
 04/25/05 AMEND: 851.23  
 04/22/05 AMEND: 149.1  
 04/19/05 AMEND: 670.2  
 04/13/05 AMEND: 2030, 2305, 2310, 2505, 2960  
 04/11/05 ADOPT: 4970.02, 4970.03, 4970.04,  
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 4970.13, 4970.14, 4970.15, 4970.16,  
 4970.17, 4970.18, 4970.19, 4970.20,  
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 04/07/05 ADOPT: 1.71 AMEND: 2.09, 2.10, 5.00  
 04/04/05 AMEND: 119900  
 03/30/05 AMEND: 852, 852.2, 852.3  
 03/30/05 AMEND: 825.03, 825.05, 826.01,  
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 03/14/05 AMEND: 150  
 03/08/05 AMEND: 29.05, 29.40, 30.00, 120.7,  
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 03/01/05 AMEND: 52.10, 150.16  
 02/28/05 ADOPT: 125  
 02/28/05 AMEND: 670.5  
 02/22/05 ADOPT: 1052.4 AMEND: 895.1, 1052,  
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 01/31/05 AMEND: 17943, 17944  
 01/28/05 ADOPT: 3806.3, 3806.5

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06/22/05 AMEND: 2000, 2400, 2403  
 06/21/05 REPEAL: 3999.1.2  
 06/21/05 REPEAL: 3999.1.3  
 06/15/05 AMEND: 3335  
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 05/31/05 AMEND: 4154  
 05/12/05 AMEND: 1491  
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 03/17/05 ADOPT: 869.1, 869.2, 869.3, 869.4,  
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 03/16/05 ADOPT: 4160, 4161, 4162, 4163  
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 03/01/05 AMEND: 1005  
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 05/18/05 AMEND: 50604, 50605, 54310, 54320,  
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 05/12/05 ADOPT: 1029.117, 1029.134, 1031.8,  
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05/02/05 ADOPT: 50243, 50245, 50247, 50249,  
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04/04/05 AMEND: 93115  
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04/29/05 ADOPT: 4056.1  
04/07/05 AMEND: 1703  
03/30/05 AMEND: 5041, 5073, 5076, 5082.2  
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03/01/05 AMEND: 2703(d), 2705(b), 2705 (Emer-  
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03/07/05 ADOPT: 2.3.1 AMEND: 8.2  
02/22/05 ADOPT: 2.3.1 AMEND: 1.1, 2.2, 2.3,  
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06/02/05 ADOPT: 51000.10.1, 51000.15.1,  
51000.20.9, 51000.31, 51000.51,  
51000.52, 51000.53, 51000.60 AMEND:  
51000.1, 51000.1.1, 51000.3, 51000.4,  
51000.6, 51000.7, 51000.16, 51000.30,  
51000.35, 51000.40, 51000.45, 51000.50,  
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97213, 97215, 97216, 97218, 97219,  
97220, 97221, 97222, 97223, 97224,  
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04/11/05 AMEND: 111430  
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03/24/05 AMEND: 70577, 70717, 71203, 71517,  
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03/23/05 ADOPT: 50960.2, 50960.4, 50960.9,  
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50960.26, 50960.29, 50960.32, 50960.36,  
50961, 50965 AMEND: 50962, 50963,  
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03/14/05 AMEND: 926.3, 926.4, 926.5  
03/10/05 AMEND: 70217  
03/03/05 REPEAL: 12901  
01/27/05 ADOPT: 51000.10.1, 51000.15.1,  
51000.20.9, 51000.31, 51000.51,  
51000.52, 51000.53, 51000.60 AMEND:  
51000.1, 51000.1.1, 51000.3, 51000.4  
51000.6, 51000.7, 51000.16, 51000.30,  
51000.35, 51000.40, 51000.45, 51000.50,  
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05/09/05 AMEND: 80044, 80045, 80066, 80070,  
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87571, 87725, 87725.12, 87844, 87866,  
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499.6.3 AMEND: 499.1, 499.2, 499.3,  
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499.7, 499.8 REPEAL: 499.6.2  
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05/23/05 ADOPT: 3939.14

05/17/05 AMEND: 645

03/28/05 AMEND: 2611

03/11/05 ADOPT: 3944.1

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04/14/05 ADOPT: 7340, 7341, 7342, 7343, 7344,  
7345, 7346, 7347

04/07/05 AMEND: 6935, 6935.2

02/02/05 ADOPT: 1338.1, 1443.1 AMEND: 1338

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06/17/05 AMEND: 1300.70.4

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